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CANADA

RESTRICTIVE TRADE PRACTICES COMMISSION

REPORT

Concerning the Manufacture, Distribution and Sale
of Boxboard Grades of Paperboard



DEPARTMENT OF JUSTICE
OTTAWA



EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1956.

RESTRICTIVE TRADE PRACTICES COMMISSION

R E P O R T

CONCERNING THE MANUFACTURE, DISTRIBUTION
AND SALE OF BOXBOARD GRADES
OF PAPERBOARD

100210
COMBINES INVESTIGATION ACT

Ottawa
1956



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RESTRICTIVE TRADE PRACTICES COMMISSION

C. Rhodes Smith, Q.C., M.A., LL.B., B.C.L.
Chairman

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RESTRICTIVE TRADE PRACTICES COMMISSION

Room 451, Justice Building,
Ottawa, June 20, 1956.

Honourable Stuart S. Garson, Q.C.,
Minister of Justice,
Ottawa.

Sir:

I have the honour to submit to you herewith the report of the Restrictive Trade Practices Commission dealing with the manufacture, distribution and sale of boxboard grades of paperboard.

The matter was brought before the Commission by the submission of a statement of the evidence obtained in an inquiry by the Director of Investigation and Research under the Combines Investigation Act and has been dealt with in accordance with the provisions of Sections 18 and 19 of the Act.

Evidence and argument in regard to the Statement of Evidence were heard by the Commission at Ottawa between September 19, 1955 and September 29, 1955. In these proceedings Messrs. F. C. Gascoigne and J. J. Quinlan appeared for the Director of Investigation and Research and Messrs. Hazen Hansard, Q.C., Duncan MacTavish, Q.C., André Forget, Q.C., J. J. Robinette, Q.C., G. N. Willoughby, Q.C., Joseph Sedgwick, Q.C., R. M. Sedgewick and R. deWolfe MacKay, Q.C. appeared on behalf of the parties mentioned in the Statement of Evidence.

Yours faithfully,

(Sgd.) C. R. Smith
C. Rhodes Smith
Chairman

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CHAPTER I

INTRODUCTION

1. Reference to the Commission

This inquiry was brought before the Restrictive Trade Practices Commission under Section 18 of the Combines Investigation Act, R. S. C. 1952, Chapter 314, which reads as follows:

- "18. (1) At any stage of an inquiry,
- (a) the Director may, if he is of the opinion that the evidence obtained discloses a situation contrary to section 32 or 34 of this Act, or section 411 or 412 of the Criminal Code, and
 - (b) the Director shall, if so required by the Minister, prepare a statement of the evidence obtained in the inquiry, which shall be submitted to the Commission and to each person against whom an allegation is made therein.
- (2) Upon receipt of the statement referred to in subsection (1), the Commission shall fix a place, time and date at which argument in support of such statement may be submitted by or on behalf of the Director, and at which such persons against whom an allegation has been made in such statement shall be allowed full opportunity to be heard in person or by counsel.
- (3) The Commission shall, in accordance with this Act, consider the statement submitted by the Director under subsection (1) together with such further or other evidence or material as the Commission considers advisable.
- (4) No report shall be made by the Commission under section 19 or 22 against any person unless such person has been allowed full opportunity to be heard as provided in subsection (2)."

The Director of Investigation and Research under the Combines Investigation Act submitted to the Restrictive Trade Practices Commission a Statement of Evidence, dated March 3, 1955, alleging the existence of a combine among certain manufacturers of boxboard grades of paperboard in Eastern Canada and associated companies. It was alleged that from October, 1934 to August, 1944

the combine operated through an incorporated company, Board Sales Limited, and subsequently through a new corporation, Dominion Paperboard Limited. The general allegations against the companies named in the Statement of Evidence were as follows:

- (1) The corporations named in paragraph 5 of the Statement of Evidence have been parties or privy to and have knowingly assisted in the formation and operation of a combination having relation to the manufacture, distribution and sale of boxboard grades of paperboard, commodities which are the subject of trade or commerce. The said combination has been by way of actual and tacit contracts, agreements or arrangements having and designed to have the effect of limiting or lessening manufacture or production, fixing common prices, enhancing prices, preventing or lessening competition and otherwise restraining or injuring trade or commerce throughout Canada with the exception of the provinces of Saskatchewan, Alberta and British Columbia. The said combination has operated and is likely to operate to the detriment or against the interests of the public by reason of the effects above described and because the participating companies have virtual control of the market.

The following particulars of allegations were also contained in the Statement of Evidence:

- (2) From October, 1934 to August, 1944 the combine operated through Board Sales Limited to fix and enhance prices, standardize grades, establish identical terms and conditions of sale and restrict and allocate production. By means of individual contracts between Board Sales Limited and each of the participating companies, boxboard was to be sold exclusively through the central sales agency, Board Sales Limited. The maintenance of common price and production policies then became ostensibly the policies of a single seller and a formal instrument of agreement signed by all the participants was unnecessary. In practice, however, sales were not made through Board Sales Limited but by the members on their own account, upon the terms and conditions fixed by Board Sales Limited.
- (3) When a system, somewhat similar to Board Sales Limited, came under investigation in 1938 by the Commissioner of the Combines Investigation Act in the Container Materials case, the parties began to cast about for an alternative organization which would have an outward appearance of legality but which would permit continued control over prices and production. After consideration of alternative plans for six years, during which the

Container Materials group were reported against by the Commissioner, convicted and the conviction affirmed by the Supreme Court of Canada (in 1942), Board Sales Limited was wound up in 1944.

- (4) The combine then continued through the instrumentality of the new incorporation, Dominion Paperboard Limited, which was set up in accordance with the formal arrangement of August 14, 1944, signed by all but two of the former members of Board Sales Limited. The admitted activities of the members as disclosed by the agreement, in themselves constitute a combine. The real activities went farther, by way of including arrangements for control over production as will be referred to later.
- (5) Hinde and Dauch Paper Company of Canada Limited and Gair Company Canada Limited, who had been members of Board Sales Limited, did not sign the Dominion Paperboard Limited arrangement. Aside altogether from Hinde and Dauch Paper Company of Canada Limited and Gair Company Canada Limited, however, the activities of the Dominion Paperboard Limited companies constitute a combine because of the policies they pursue and the proportion of the market over which they are able to make such policies effective.
- (6) The position of Hinde and Dauch Paper Company of Canada Limited and Gair Company Canada Limited under the Dominion Paperboard Limited arrangements was essentially the same as under the Board Sales Limited system. They participated in the statistical system of Dominion Paperboard Limited as "non-members" and they participated in the establishment of common price and production policies by agreement with the Dominion Paperboard Limited members, arrived at during meetings of the Board Section of Canadian Pulp and Paper Association, in which they shared common membership with the Dominion Paperboard Limited members. Whether the Board Section and Dominion Paperboard Limited meetings were separate and repetitious or whether they overlapped in respect of the discussion of certain common business only or whether they overlapped substantially or entirely, the fact is that they provided the occasion for Hinde and Dauch Paper Company of Canada Limited and Gair Company Canada Limited to acquaint themselves with the collusive policies of the Dominion Paperboard Limited companies for the purpose of adhering to such policies. The timing of the two price changes in January and June, 1951, can only be explained in terms of such collusion.

- (7) The standardization of qualities and grades was designed to have and did have the following effects:
- (a) It prevented competition in quality from developing among the companies.
 - (b) It supported the price agreements themselves by defining precisely the products to which the agreed prices should apply and preventing the manufacture of products not answering such definitions.
 - (c) It limited the choice open to consumers at the more favourable prices applied to standard grades.
- (8) The detailed discussions of production and sales statistics that took place at Board Sales Limited and Dominion Paperboard Limited meetings, including the detailed discussions of the statistics relating to all the individual companies, could have no other purpose than to control and allocate production among the companies. When collusion among suppliers is restricted to price agreements, it leaves room for non-price competition whereby the respective shares of the participating companies in the market may from time to time increase or decrease. When the collusion is so restricted to price, and it is open to a participant to increase his share of the market, the details of the company's production and sales tend to be jealously guarded. Conversely, when the participants disclose all such details readily to their so-called competitors and spend long hours discussing such details with them, no other conclusion is open except that the intention is to extend the collusion into the fields of production and sales. The statistics as described in Chapter XI [of the Statement of Evidence] relating to the market shares of the different companies and groups of companies indicate that, not only was market allocation intended but it was also the result of this examination of statistics.
- (9) The price provisions of the Dominion Paperboard Limited agreement are found in clause 5, and in sub-clause (b) the principles of price determination are set out. It is averred that the prices shall be reasonable and fair having regard to "general economic conditions, the needs of the public, the interests of labour, the necessity of maintaining productive capacity adequate to meet present and future demands, and a reasonable profit". Even if it were possible to apply such principles rigidly and accurately, the adoption of common prices by agreement among the members of an entire industry would, nevertheless,

constitute a combine because such an agreement ignores the specific public interest in free competition.

- (10) On the occasions of general price revisions, the Dominion Paperboard Limited directors, according to the minutes, reviewed these principles before proceeding to fix prices and set forth in the minutes the particular cost increases to which the price increases were attributed. These cost factors were usually raw materials, transportation or wages. The evidence indicates that this review was purely pro forma, and statistics indicate that the price increases were not justified on the basis of the cost increases designated in the minutes. The minutes therefore fail to show that the determination of prices was in accordance with the principles agreed upon for price determination. Such principles could not in any event be applied in the boxboard industry because differences in the raw materials used, the location of the companies, and the variety of products manufactured by them make it impossible that such cost increases could come to bear on the different companies in the same manner so as to justify uniform increased prices.
- (11) The statistical evidence makes it apparent that the actual basis of price determination was the strengthening of the market for boxboards which occurred from time to time in both Canada and the United States. When the market strengthened, Dominion Paperboard Limited increased prices; when the market weakened, prices still held.
- (12) The enhancement of Canadian prices resulting from the combine is demonstrated by comparing Canadian and United States prices. Similarity of the industries in the two countries makes such a comparison valid. United States prices have shown response to market conditions by movements upward and downward while Canadian prices have moved only upward during the period under review.

2. Parties Mentioned in the Statement of Evidence

The following brief descriptions of the corporations participating in the combine as alleged are based on those contained in the Statement of Evidence:

Bathurst Power & Paper Company Limited, (hereinafter referred to as Bathurst), is a Dominion company incorporated on February 3, 1928, and has its head office in Bathurst, New Brunswick. It manufactures boxboard grades of paperboard at

its mill at Bathurst, New Brunswick. It became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation.

The Beaver Wood Fibre Company, Limited, (hereinafter referred to as Beaver), was incorporated on September 25, 1914, under the laws of the Province of Ontario, and has its head office at Thorold, Ontario, where its boxboard mill is also located. It became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation.

Consolidated Paper Sales, Limited, and Consolidated Paper Corporation Limited, (hereinafter jointly referred to as Consolidated).

Consolidated Paper Sales, Limited, was incorporated under the laws of the Province of Quebec on July 3, 1928, under the name of St. Maurice Valley Paper Company Limited and assumed its present name in 1946. Its head office is at Montreal. It is a wholly-owned subsidiary of Consolidated Paper Corporation Limited, and sells the boxboard produced by its parent company at GrandMere, Quebec, and Port Alfred, Quebec. St. Maurice Valley Paper Company Limited became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation. Membership was continued on the change of name to Consolidated in 1946. Consolidated Paper Corporation Limited was incorporated on August 28, 1931, under The Companies Act of Canada and has its head office in Montreal.

The E. B. Eddy Company, (hereinafter referred to as Eddy), was incorporated by special act of the Parliament of Canada on June 2, 1886, and has its head office at Hull, Quebec. It produces boxboard grades of paperboard in its mill at Ottawa, Ontario, and sells them through its own sales organization, principally to manufacturers of folding and set-up boxes. On July 1, 1946 it acquired the boardmaking machine formerly operated by J. R. Booth Limited, which had been a member of Board Sales Limited and Dominion Paperboard Limited, and thereupon became a shareholder of Dominion Paperboard Limited.

Fraser Companies, Limited, (hereinafter referred to as Fraser), was incorporated on June 27, 1917, under the laws of Canada, with head office at Plaster Rock, Victoria County, New Brunswick. It produces boxboard grades of paperboard at Edmundston, New Brunswick, and sells them through its own sales organization. It became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation.

Gair Company Canada Limited, (hereinafter referred to as Gair), was incorporated under the laws of Canada on April 4, 1934, with head office at Toronto. It manufactures boxboards primarily for consumption in its own converting plants and also sells a considerable quantity direct to users. Its boxboard mills are located in Toronto and Montreal. It was a shareholder of Board Sales Limited until 1944.

Hinde and Dauch Paper Company of Canada Limited, (hereinafter referred to as Hinde & Dauch), was originally incorporated under the laws of the Province of Ontario in December, 1909 and was reincorporated on October 22, 1924, under its present name. Its head office is at Toronto. It manufactures a range of boxboard grades at its Toronto mill, the products being sold by the company's own sales organization, largely to manufacturers of folding and set-up boxes. It was a shareholder of Board Sales Limited until 1944.

Howard Smith Paper Mills, Limited, (hereinafter referred to as Howard Smith), was incorporated on May 12, 1928, under the laws of Canada, its head office being in Montreal. It manufactures boxboard in its mill at Cornwall, Ontario, and sells through its own sales organization. It became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation.

Minas Basin Pulp and Power Company Limited, (hereinafter referred to as Minas Basin), was incorporated under the laws of the Province of Nova Scotia in 1927, with head office at Hantsport, Nova Scotia. It produces boxboard grades of paperboard at its mill at Hantsport and sells them to manufacturers of folding and set-up boxes principally. It began to engage in paperboard production during the latter part of 1948 and became a shareholder of Dominion Paperboard Limited on December 30, 1950.

Northeastern Paper Products Limited, (hereinafter referred to as Northeastern) and its parent company Anglo-Canadian Pulp and Paper Mills Limited, (hereinafter referred to as Anglo-Canadian).

Northeastern was incorporated under the laws of Canada on July 25, 1942, with head office in the City of Quebec. It purchases all boxboard grades of paperboard manufactured by its parent company and sells them in the market. It became a shareholder of Dominion Paperboard Limited on July 5, 1950.

Anglo-Canadian is a Quebec company incorporated in 1924 under the name Quebec Paper Mills Limited, its present name being adopted in 1925. It produces boxboard at its mills at

Quebec, which began operations in 1950.

The Miller Brothers Company Limited, (hereinafter referred to as Miller Brothers), was incorporated under the laws of Canada on December 13, 1920. Its head office and boxboard mill are at Glen Miller in Hastings County, Ontario. It became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation.

Price Brothers Sales Corporation, and Price Brothers & Company, Limited, (hereinafter jointly referred to as Price Brothers).

Price Brothers Sales Corporation was incorporated on June 26, 1928, under the Quebec Companies' Act, with head office at Quebec City. It purchases the entire production of boxboard manufactured by its parent company, Price Brothers & Company, Limited, and sells it to domestic and foreign consumers. It became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation.

Price Brothers & Company, Limited, was incorporated in 1920 under the laws of Quebec. It manufactures boxboard at Jonquiere, Quebec, and Kenogami, Quebec.

St. Lawrence Corporation Limited, (hereinafter referred to as St. Lawrence), was incorporated on May 19, 1930, under the laws of Canada, and its head office is in Montreal. It produces boxboard at its plant at East Angus, Quebec, and sells such boxboard directly to manufacturers of boxes. It became a shareholder of Dominion Paperboard Limited on January 1, 1952. Prior to that date and throughout the period covered in the Statement, the manufacture and sale of boxboard was carried on by a subsidiary company, Brompton Pulp & Paper Company, Limited, (hereinafter referred to as Brompton), whose assets were acquired by St. Lawrence on January 1, 1952. Until that date, Brompton was a shareholder of Board Sales Limited and of Dominion Paperboard Limited.

Strathcona Paper Company Limited, (hereinafter referred to as Strathcona), was incorporated on October 25, 1922, under the laws of the Province of Ontario, with head office at R. R. No. 7, Napanee, Ontario. It manufactures boxboard at its mill at Strathcona, Ontario, and sells it chiefly through its own selling organization. It became a shareholder of Board Sales on its incorporation and subsequently became a shareholder of Dominion Paperboard Limited on its incorporation.

Board Sales Limited, (hereinafter referred to as Board Sales), was the company set up by the boxboard manufacturers to carry out the objects of the agreement described in Chapter IV of the Statement of Evidence. It was incorporated under the laws of Canada on June 27, 1934, with head office at Montreal, and its charter was surrendered on June 14, 1945.

Dominion Paperboard Limited, (hereinafter referred to as D. P. L.), is the company incorporated under the laws of Canada on August 16, 1944, by the said manufacturers to carry out the objects of the arrangement of August 14, 1944. Its head office is at Montreal.

An officer of Dominion Paperboard Limited was also named in the allegations set out in the Statement of Evidence. However, as we do not find it necessary to reach any conclusion as to the position of any individual in appraising the effect of the arrangements and practices disclosed in the evidence, we have omitted reference to this part of the allegations made by the Director.

3. Hearings and Witnesses

The evidence on which the Statement of Evidence was based consists of documentary evidence obtained by the Director from the possession of the companies concerned, returns of information made to the Director by the companies concerned and by the Canadian Pulp and Paper Association (C. P. P. A.), oral evidence and other documentary evidence adduced before the Chairman of the Commission at hearings held on January 7 and 8, 1954 and from May 10 to 14, 1954, and certain published material, including statistical reports of Canadian and U. S. government departments. Documentary evidence obtained from the possession of the companies concerned and certain of the documents obtained by way of returns were given serial numbers for purpose of identification and the serial numbers of such documents will be cited in this report when reference is made to them.

The following witnesses were examined at the hearings held in January and May, 1954:

G. S. Pincott,	Secretary, Board Section, Canadian Pulp and Paper Association
P. W. Haslam,	Assistant Treasurer, Dominion Paperboard Limited
Maurice Hauser,	Statistical Auditor, Dominion Paperboard Limited

W. H. O'Reilly,	Secretary and Treasurer, Dominion Paperboard Limited
J. S. Babbitt,	Vice-President, Gair Company Canada Limited
A. M. Bray,	In Charge of Sales, Montreal Office, Gair Company Canada Limited
D. H. Ross,	President and General Manager, Gair Company Canada Limited
W. S. Whitney,	Office Manager, Toronto Mill Division, Gair Company Canada Limited
W. H. Palm,	President and General Manager, Hinde and Dauch Paper Company of Canada Limited
J. R. Winchell,	Sales Manager, Boxboard Division, Hinde and Dauch Paper Company of Canada Limited

In accordance with Section 18(1) of the Combines Investigation Act, the Statement of Evidence was submitted to the Restrictive Trade Practices Commission and also to each of the persons against whom an allegation was made therein. After receiving representations from the parties concerned as to the date of hearings, the Commission, by an order dated March 28, 1955, fixed Monday, September 19, 1955, at 10 o'clock in the forenoon in a court room of the Exchequer Court of Canada, in the City of Ottawa, as the date, time and place at which argument in support of the Statement of Evidence could be submitted and at which persons against whom any allegation had been made in such Statement would be allowed full opportunity to be heard in person or by counsel, the whole in compliance with Section 18(2) of the Act. In giving notice thereof, the Commission further informed the parties that at such hearing they would have the opportunity of further examining any witness who had been called during the course of the inquiry or of having called any additional witnesses or of submitting additional documentary evidence. The following appearances were registered at the hearing which began on September 19, 1955, and concluded on September 29, 1955:

F. C. Gascoigne, Esq., and J. J. Quinlan, Esq.	For Director of Investigation and Research;
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Hazen Hansard, Q. C., Duncan MacTavish, Q. C. André Forget, Q. C.,	For Dominion Paperboard Company Limited, and Mr. O'Reilly;
J. J. Robinette, Q. C., G. M. Willoughby, Q. C.,	For Gair Company Canada Limited;
Joseph Sedgewick, Q. C., R. M. Sedgewick,	For Hinde and Dauch Paper Company of Canada Limited;
R. deWolfe MacKay, Q. C.,	For St. Lawrence Corporation Limited.

Before argument was heard by the Commission the following witnesses were examined and certain exhibits were received:

R. M. Fowler,	President, Canadian Pulp and Paper Association
R. L. Weldon,	President, Bathurst Power & Paper Company Limited
A. C. Price,	President, Price Brothers Sales Corporation, and Price Brothers & Company, Limited
W. E. Soles,	Vice-President and General Manager, Anglo-Canadian Pulp and Paper Mills Limited
W. H. O'Reilly,	Secretary-Treasurer, Dominion Paperboard Limited
F. L. Mitchell,	General Manager, Canadian Pulp and Paper Association
A. E. Bachmann,	Executive Vice-President, Missisquo Corporation, Sheldon Springs, Vermont, U.S.A.
G. M. Smith, C.A.,	Partner, P. S. Ross and Sons

For purposes of clarity, reference in this report to evidence given at hearings for the taking of evidence will be made as follows: "Evidence, p. ...". Reference to evidence given at the hearing before the Commission will be made as follows: "Hearing, p. ...".

4. Position Taken with Respect to the Allegations
by the Respective Parties

For the purpose of facilitating the presentation of argument, the parties against whom allegations had been made in the Statement of Evidence had been requested by the Commission to submit in advance of the hearings, if possible, a statement indicating the position taken with respect to the facts and conclusions set out in the Statement of Evidence. The main points on which issue was taken in the submissions made in response to the Commission's request may be stated broadly as follows:

1. It was submitted that there was a complete separation between the activities carried on through Board Sales Limited and those pursued through Dominion Paperboard Limited. The brief submitted on behalf of Hinde & Dauch stated, "If there was any unlawful conspiracy prior to 1944 that conspiracy ended completely with the winding up of Board Sales in that year."
2. It was denied that any practices or arrangements disclosed by the evidence were contrary to the Combines Investigation Act or Section 498 (now Section 411) of the Criminal Code or were contrary to the public interest.
3. The following submissions were made more particularly on behalf of the shareholder members of Dominion Paperboard Limited:
 - (a) Dominion Paperboard Limited was formed following the decision of the Supreme Court of Canada in the Container Materials case in a genuine, honest, open and bona fide attempt to live within the law and to eliminate practices found to be objectionable in that case.
 - (b) The whole purpose of the Dominion Paperboard Limited arrangement was openly set forth in writing in the arrangement itself and the member companies have scrupulously endeavoured to live up to that arrangement.
 - (c) The prices established by Dominion Paperboard Limited pursuant to the said arrangement have in fact been fair and reasonable, have been directly related to costs and have not kept pace with those costs.
 - (d) Prices established under the Dominion Paperboard Limited arrangement have affected a total tonnage insufficient to give the members of Dominion Paperboard Limited any control, whether monopolistic or otherwise, over the class or species of business in which they are engaged.

(e) The two major American subsidiary companies Gair and Hinde & Dauch refused to enter into the Dominion Paperboard Limited arrangement and have never done so, whether by actual or tacit agreement or otherwise.

(f) Their subsequent subscription on a fee paying basis to statistical services has in no way identified them with the primary purpose of the Dominion Paperboard Limited arrangement.

(g) The attempt in the Statement of Evidence to suggest that liaison between the members of Dominion Paperboard Limited and Gair and Hinde & Dauch has been accomplished through the holding of meetings of the Board Section of the Canadian Pulp & Paper Association and of Dominion Paperboard Limited on the same day and at the same place is entirely without foundation; such meetings were at all times separate and distinct.

(h) The price increases which have been instituted since the removal of wartime controls have all been arrived at in the face of active competition. So far as price is concerned, the only agreements have been between the members of Dominion Paperboard Limited in accordance with their arrangement and have related to standard lines only. There have been no agreements actual or tacit between such members and Gair and Hinde & Dauch as to prices, price leadership or any other matter affecting the competitive merchandising of their respective products. All other competitive factors have been completely free from agreements of any kind.

(i) There has been no standardization of product in any way affecting price or the ability of consumers to obtain what they want and the Director has ignored the function of so-called "specialties" in this regard.

(j) The so-called "statistical system" is not a system at all but involves the collection and dissemination of statistical information useful and used solely for ordinary legitimate business purposes.

4. The following submissions were made on behalf of Hinde & Dauch and an identical position was taken by Gair:

(a) Since the formation of D. P. L. in 1944 this company has not combined or agreed with any other manufacturers as to prices, quality, standards, distribution, sale or otherwise. Since November, 1945, by specific and limited understanding, this company has furnished to and

received from D. P. L. production statistics and information as to slow or delinquent accounts. It has co-operated with D. P. L. to this limited extent in its own interest solely and so that it could have information that would enable it to follow sound business practices and to compete effectively with other manufacturers to whom such information was available. This company takes the position that such interchange of information is not unlawful.

(b) While officers of the company did attend meetings of the Board Section of C. P. P. A., on no occasion did any officer or representative of the company attend formal or informal meetings of D. P. L. The company did not receive or have access to copies of minutes of D. P. L. The company relies on sworn testimony of witnesses to the effect that meetings of the Board Section and D. P. L. never did overlap and that prices and related subjects were never discussed at Board Section meetings.

(c) The evidence does not support the conclusion of the Director that the auditor of D. P. L. was allowed to examine business records of Hinde & Dauch in a way that permitted intimate details of its business to come under the detailed scrutiny of the employing group. The evidence is that the auditor of D. P. L. is permitted to have access to the Hinde & Dauch invoices for the purpose only of checking the accuracy of the statistical information supplied, and there is no evidence that the auditor reported to D. P. L. on any details of the Hinde & Dauch business, and so far as this company is aware the fact is otherwise; the auditor is given access to their records on the understanding that he will keep confidential any information he may acquire other than information supporting or varying the statistical returns made by the company. On no occasion did D. P. L. protest to this company as to the prices that it charged, this company not being subject to D. P. L. supervision in that or in any other regard.

(d) The company does not join in any standardization practices as alleged by the Director. There is evidence that very occasionally Hinde & Dauch supplied samples of certain lines either as a courtesy, or for testing, but to describe such incidents as a "practice" is a misuse of the word. In the case of patent coated board the company availed itself of the testing facilities available at Bathurst. This type of patent coated board is not standardized, each company endeavours to make the best grade that its skills and facilities permit.

(e) The exchange of statistical information participated in by the company was at all times for informational purposes only and there was never any agreement as to an allocation of total domestic shipments as alleged. The statistical tables included in the evidence show wide variations in the shares of the market supplied by the various companies in different years. These wide variations would not be possible if the market had been stabilized by agreement.

CHAPTER II

THE BOXBOARD MANUFACTURING INDUSTRY

1. Boxboard Grades of Paperboard

Boxboard grades of paperboard consist of several classes within the general designation of paperboard. The Canadian Pulp and Paper Association (C.P.P.A.), for statistical purposes, classifies paperboard into four groups, each of which has various sub-groups. These are:

Container Board
Boxboard
Building Boards
Wet Machine Boards

The first two groups largely embrace paperboard for use in container or package manufacturing, container board embracing materials used in the manufacture of corrugated shipping containers and boxboard embracing materials used in the manufacture of folding and set-up boxes.

The following description of classes of paperboard classified as boxboard by C. P. P. A. is given in the Statement of Evidence:

"Boxboard:

- (1) Boxboard for Folding Cartons: Chipboard; Crackershell; Screenings; No. 2 Filled Pulp; Coloured or Mist Suit Boxboard - Chip or Screenings Back; Single Kraft Lined - Chip or Screenings Back; Double Kraft Lined - Chip or Screenings; Chip or Screenings Coloured Two Sides; Solid Pulpboard; Solid Kraft Board - Cylinder; Solid Kraft Board - Fourdrinier; Single Bleached Manilla Lined - Chip, News Screenings or Pulp Back; Double Bleached Manilla Lined; Single Manilla Lined - Chip, News Screenings or Pulp Back; Solid Bleached Sulphite Board; Patent Coated - (white and coloured), No. 2 Double, No. 2 Manilla or News Back, No. 1 Double, No. 1 Manilla or News Back; Other Folding Board.
- (2) Boxboard for Set-up Boxes: Plain Chip; Plain Straw; News Lined Chip; Screenings; No. 2 Filled Pulp; No. 1

Pulp (solid); White Vat Lined - Chip or Screenings Back;
Coloured Vat Lined - Chip or Screenings Back;
Newsboard; Other Non-Folding Boards.

- (3) Other Boards: Pasted Chipboard; Mill Wrapper - including Bands and Heads; Core Paper; Tube Stock; Wrapper - (other than Newsprint Wrapper); Layer Board; Mounting Board; Pie Plate Board; Apple Barrel Circles; Panel Board (cylinder); Match Board (Splint Stock); Liner for Gypsum or Plaster Board; Board for laminating into Building Board; Other Miscellaneous Paperboards."

2. Position of Manufacturers Named
in the Statement of Evidence

Statistics relating to the boxboard manufacturing industry are compiled by several agencies, including the Dominion Bureau of Statistics, the Canadian Pulp and Paper Association and, with respect to companies participating in the statistical interchange, Dominion Paperboard Limited. Apparently some differences in classification are made when several agencies compile figures relating to the same matters so that some discrepancies appear when similar series are compared. However, such discrepancies are generally of a minor character.

The following figures contained in publications of C. P. P. A. show the production, use in Canada and exports of the three classes of boxboard grades of paperboard in recent years.

Table 1. Production, Consumption and Exports of Boxboard Grades of Paperboard

	1949	1950	1951	1952	1953	1954
	tons	tons	tons	tons	tons	tons
<u>Folding Board</u>						
Produced	141,869	156,853	168,875	153,440	167,775	174,392
Used in Canada	131,114	150,748	153,360	141,022	165,259	167,933
Exported	10,816	6,021	14,371	12,742	2,130	5,033
<u>Set-Up Board</u>						
Produced	45,501	47,402	47,386	40,675	45,780	43,781
Used in Canada	40,737	42,824	41,377	35,972	40,943	38,007
Exported	4,441	4,530	5,736	4,522	4,601	5,235
<u>All Other Board</u>						
Produced	142,713	153,317	166,077	151,571	154,078	159,672
Used in Canada	116,118	125,418	134,823	128,847	137,227	142,026
Exported	26,061	29,129	28,806	22,048	19,029	17,632
<u>Total, Boxboard Grades(1)</u>						
Produced	330,083	357,572	382,338	345,686	367,633	377,845
Used in Canada	287,969	318,990	329,560	305,841	343,429	347,966
Exported	41,318	39,680	48,913	39,312	25,760	27,900

Source: Exhibit H-7 - Canadian Pulp and Paper Association Releases

(1) The following figures for 1955 are given in the report of the Board Section, C. P. P. A., published in the Convention Issue, 1956 of the Pulp and Paper Magazine of Canada:

<u>Boxboard Grades</u>			
Produced	- 397,204;	Used in Canada - 369,049;	Exported - 30,755

The size of the boxboard manufacturing industry is indicated more clearly when tonnage figures are related to the value of production. The following table, based on statistics published by the Dominion Bureau of Statistics, shows the quantity and value of production of the three classes of boxboard in recent years.

Table 2. Quantity and Value of Production of
Boxboard in Canada, 1947 to 1954

	For Folding Cartons		For Set-Up Boxes		Other	Boards
	Qty. (Tons)	Value (\$000)	Qty. (Tons)	Value (\$000)	Qty. (Tons)	Value (\$000)
1947	147,700	15,851	46,184	3,654	177,958	12,096
1948	154,745	18,420	49,225	4,401	183,471	14,373
1949	143,215	17,362	45,525	4,066	174,582	13,692
1950	157,690	20,085	47,625	4,503	199,761	16,840
1951	172,220	26,381	49,376	5,547	217,025	19,865
1952	155,564	24,754	38,289	4,411	190,898	19,047
1953	169,428	26,731	47,731	5,535	201,174	19,330
1954	174,945	29,031	45,552	5,451	199,115	19,490

Source: D. B. S. "The Pulp and Paper Industry".

It will be noted that the tonnage figures published by the Dominion Bureau of Statistics for the folding and set-up classes of boxboard differ only slightly from the figures for similar classes of boxboard published by the Canadian Pulp and Paper Association. In the case of "Other Boards" D. B. S. figures apparently cover a much wider range of paperboards as the totals are considerably greater than those shown in C. P. P. A. reports.

On the basis of data submitted in returns of information made in the inquiry, the Director of Investigation and Research compiled figures of the production of boxboard grades of paperboard by the manufacturers named in the Statement of Evidence and by certain subsidiary companies of Howard Smith and by Sidney Roofing & Paper Company Limited, Victoria, B. C., which is a subsidiary of the parent company, Eddy. The figures so derived were related to the figures of total production published by the Dominion Bureau of Statistics. The summary figures compiled by the Director are shown below:

Table 3. Canadian Production of Boxboard for Folding Boxes

	1947 tons	1948 tons	1949 tons	1950 tons	1951 tons	1952 tons
Shareholder Companies of D. P. L.	98,261	103,484	87,193	102,305	114,460	100,589
Gair and Hinde & Dauch	43,216	43,655	45,778	43,007	44,941	43,452
Sub-Total	141,477	147,139	132,971	145,312	159,401	144,041
Alliance and Sidney Roofing	6,263	6,486	7,768	9,984	11,710	8,083
Total	147,740	153,625	140,739	155,296	171,111	152,124
D. B. S. Total	147,700	154,745	143,215	157,690	172,220	155,564

Source: Returns of information made to the Director and, for the D. B. S. total, "The Pulp and Paper Industry" annual.

Table 4. Canadian Production of Boxboard for Set-Up Boxes

	1947 tons	1948 tons	1949 tons	1950 tons	1951 tons	1952 tons
Shareholder Companies of D. P. L.	38,394	38,699	35,633	40,897	39,800	35,619
Gair and Hinde & Dauch	7,382	8,294	8,357	7,831	6,459	6,017
Sub-Total	45,776	46,993	43,990	48,728	46,259	41,636
Sidney Roofing	957	902	872	1,069	1,326	915
Total	46,733	47,895	44,862	49,797	47,585	42,551
D. B. S. Total	46,184	49,225	45,525	47,625	49,376	38,289

Source: Returns of information made to the Director and, for the D. B. S. total, "The Pulp and Paper Industry" annual.

Table 5. Canadian Production of Boxboard - Other Boards

	1947	1948	1949	1950	1951	1952
	tons	tons	tons	tons	tons	tons
Shareholder Companies of D. P. L.	96,420	98,663	88,774	100,004	118,783	96,615
Gair and Hinde & Dauch	23,982	25,227	20,921	21,583	21,209	17,103
Sub-Total	120,402	123,890	109,695	121,587	139,992	113,718
Don Valley, Alliance and Sidney Roofing	1,934	2,038	2,450	4,158	5,195	4,882
Total	122,336	125,928	112,145	125,745	145,187	118,600
D. B. S. Total	177,958	183,471	174,582	199,761	217,025	190,898

Source: Returns of information made to the Director and,
for the D. B. S. total, "The Pulp and Paper
Industry" annual.

In foot notes to the tables in the Statement of Evidence it is stated that figures for subsidiaries of Howard Smith were included in the compilations because they are reported to the Dominion Bureau of Statistics as related to boxboard grades although they are not so regarded by the parent company.

The Director also secured information as to the areas into which shipments of boxboard were made by Sidney Roofing and Paper Company Limited and by the eastern manufacturers. Shipments of the former company were confined to Saskatchewan, Alberta and British Columbia and those of the other companies virtually to Manitoba and the provinces to the east thereof.

From the Dominion Bureau of Statistics the Director obtained a list of boxboard manufacturers reporting production of the three classes of boxboard grades of paperboard in the period 1947-52. This list, taken in conjunction with the statistics in the tables presented above, makes clear that in the case of folding board and set-up board the manufacturers indicated have been the only manufacturers of these classes in this period. In the case of "Other Boards" a number of other manufacturers produce boards reported in this category. According to the Statement of Evidence some of this production consists of mill wrapper and board for further use by the manufacturer in the production of building boards.

In the statistical tables by companies, prepared by D. P. L., manufacturers are classified under two groups, "pulp mills" and "waste mills". The basis of classification is obviously the principal paper stock used in the manufacture of boxboards. The pulp mills, which are engaged in other pulp and paper-making activities in addition to the manufacture of boxboards, presumably rely to a greater extent on virgin pulp than do the waste mills which are more exclusively concerned in their paper mill operations in the manufacture of paperboards. Three of the waste mills, Miller, Minas Basin and Strathcona make only boxboards and container boards while Beaver makes boxboards and wallboards. Hinde & Dauch, in addition to producing boxboards and container boards in its mills, manufactures corrugated and solid fibre shipping containers. Gair engages in the same fields and, as well, is the only boxboard manufacturer to make folding and set-up boxes and thus uses its production, in part, in its own box plants.

The returns of information made in the inquiry permitted the Director to determine the tonnage of folding and set-up boxboards, exclusive of intra-company shipments and shipments to subsidiary companies, which made up the domestic shipments of the manufacturers. When the shipments on this basis were averaged for the period 1947-52 and the average production in the same period was taken, the following results were obtained for what may be termed eastern production, that is, excluding the production of the manufacturer in British Columbia.

Table 6. Distribution of Production and Domestic Shipments of Folding and Set-Up Boxboards, Eastern Canada, 1947-52

	Production		Domestic Shipments (excluding intra-company shipments and shipments to subsidiary companies)	
	Folding	Set-Up	Folding	Set-Up
Shareholder				
Members of				
D. P. L.	69.5%	83.8%	79.6%	84.0%
Gair	18.5	14.5	4.6	13.7
Hinde & Dauch	12.0	1.7	15.8	2.3

3. Customs Duties and Imports

Imports of boxboard grades of paperboard appear to fall in the main under Tariff Item 192, the rates of duty under which have been as follows for a great many years:

British Preferential	15%
Most - Favoured - Nation	22 1/2
General	35

Available statistics of imports of boxboard grades of paperboard show that such imports have been very small in relation to the volume of production in Canada. The following table, prepared by the Director, shows imports of the principal boxboard grades of paperboard in the period 1947-53:

Table 7. Imports into Canada Principal Boxboard Grades of Paperboard

<u>Year</u>	<u>Tons</u>	<u>Value</u> \$
1947	1,155	127,688
1948	327	40,159
1949	67	9,224
1950	133	29,337
1951	385	51,636
1952	1,098	148,646
1953	1,077	156,954

Source: Trade of Canada.

CHAPTER III

AGREEMENT AMONG MANUFACTURERS OF BOXBOARD THROUGH BOARD SALES LIMITED

1. Organization of Board Sales Limited

In the description of Board Sales Limited given earlier in this report it is indicated that Board Sales Limited was incorporated on June 27, 1934, and that its charter was surrendered on June 14, 1945.

Although Board Sales was incorporated in 1934 the arrangements contemplated in its organization do not appear to have been brought into full force until the following year. This delay was occasioned, in part if not entirely, by the problem of dealing with container board, i. e., material for shipping cases, which was of principal interest to four only of the manufacturers who entered into agreements with Board Sales. This problem was resolved by excluding container board from Board Sales and having it controlled by a separate organization, Shipping Case Material Manufacturers Association. The relationship between the two organizations is described in the following letter, dated February 27, 1935, from Bathurst to Board Sales:

"We refer you to our letter addressed to Mr. O'Reilly, under date of December 12th, 1934, wherein, because of the circumstances which had arisen, as set forth in said letter, the Bathurst Company concluded that the conditions under which it had signed the agreement with the Board Sales, Limited, as stated in its letter addressed to Board Sales, Limited, under date of October 1st, 1934, had failed of fulfilment and that the Bathurst Company considered the agreement, so far as it was concerned, as inoperative and without effect.

Following subsequent discussions and in particular at the meeting which took place in Montreal on the 22nd day of January last, the Bathurst Power & Paper Company begs to advise that the under-mentioned companies:

Bathurst Power & Paper Company, Limited
Brompton Pulp & Paper Company, Limited
Dominion Boxboards, Limited
Hinde & Dauch Paper Company of Canada, Limited

have formed themselves into an Association to be called and known as 'Shipping Case Material Manufacturers Association'.

The objects of this Association are the promotion of friendly business relations between the abovenamed manufacturers and the maintenance of fair prices for shipping case materials. The agreement embraces all sales in the Dominion of Canada, and the officers of the Association are Messrs. Hardy and Badden of Toronto and Montreal.

Under the agreement which has been executed by the abovenamed Companies, Shipping Case Material Manufacturers Association will have entire jurisdiction and control over sales of kraft liner, test liner and corrugating materials manufactured by the signatories thereto, and Bathurst Power & Paper Company, Limited, hereby notifies Board Sales, Limited, that the agreement between it and Board Sales, Limited, which was delivered to Board Sales, Limited, with an accompanying letter, dated October 1st, 1934, containing a proviso that such agreement was not to become effective until similar agreements had been signed by the other Companies mentioned in said letter, is inoperative and without effect in so far as kraft liner, test liner and corrugating materials are concerned.

During the term of the agreement constituting the Shipping Case Material Manufacturers Association, it will be the policy of the latter to inform Board Sales, Limited, of the trade customs, prices and terms of sale at which the products in question are sold and Board Sales, Limited, undertakes and agrees that its members will cooperate with Shipping Case Material Manufacturers Association on prices, terms of sale and trade customs adopted by Shipping Case Material Manufacturers Association for kraft liner, test liner and other corrugating materials when sold for the manufacture of shipping cases.

Bathurst Power & Paper Company, Limited, will make monthly reports to Board Sales, Limited, of its domestic sales of kraft liner products and will pay to Board Sales, Limited, the sum of ten cents per ton on its domestic sales or such greater or lesser amount as the Board of Directors of Board Sales, Limited, may deem necessary for the twelve months commencing March 1st, 1935, for account of the expenses of administration of Board Sales, Limited, on the understanding that the matter of this payment shall be reviewed at the end of one year from this date.

Bathurst Power & Paper Company, Limited, will contribute one percent (1%) to Board Sales, Limited, on the sales of shipping case materials sold for purposes other than the

manufacture of shipping cases, and, on such shipping case materials, agrees to maintain the prices fixed by Board Sales, Limited, provided the price so fixed is not less than the minimum price established by Shipping Case Material Manufacturers Association on such materials.

Notwithstanding the provisions of the next preceding paragraph, the Bathurst Company reserves the sole right to determine the prices at which sales of kraft liner are made to the following Companies during the year 1935:

American Can Company
Beaver Wood Fibre Company
Firstbrook Boxes, Limited
International Paper Company or its Subsidiaries or Affiliated Companies.

This letter is to be attached to and form part of the aforesaid agreement which was delivered to Board Sales, Limited, with an accompanying letter dated October 1st, 1934."

(Serials 2074-76)

As soon as the problem of the control of container board was settled, agreements were made between the manufacturers of boxboard and Board Sales. The agreement of Bathurst and Board Sales, included among the exhibits in the inquiry, was dated March 1, 1935, and it appears that agreements in like form with other companies were made on or about the same date. The following companies entered into agreements with Board Sales at this time:

Bathurst
Beaver
Brompton (now St. Lawrence)
Dominion Boxboards Limited (soon thereafter acquired by Gair)
Fraser
Gair
Hinde & Dauch
Howard Smith
Miller Brothers
Price Brothers
St. Maurice Valley Paper Company Limited (now Consolidated)
Strathcona

Provision was made in the agreement for the possible inclusion of J. R. Booth Limited and this company entered into a similar agreement with Board Sales prior to 1938.

2. The Board Sales Agreement

The agreement between Board Sales and the respective manufacturers was in the form of an agency contract whereby, in the words of the agreement, "The Principal [the manufacturer] hereby appoints the Agent [Board Sales] its sole and exclusive agent for the sale of all paper board and pulp board products of the Principal" (Serial 2079), with certain exceptions.

In actual operations under the Board Sales agreement, sales were made by the respective manufacturers direct to their customers. The making of the agreement in the form of an agency contract appears to have been significant in the degree of control which it indicated was established over the operations of the manufacturers.

Under the Board Sales agreement each manufacturer undertook not to dispose of any of the products covered by the agreement "save as expressly provided" (Serial 2080). Prices, terms and conditions of all sales of the products covered by the agreement were to be determined by the Board of Directors of Board Sales, the membership of which was composed of representatives of the manufacturers. Board Sales was to be informed of all sales transactions of the respective manufacturers by receiving copies of all sales documents and by having authority to examine the records of each manufacturer. The following provisions of the agreement related to these matters:

"Clause 6. The Principal agrees that copies of all orders, invoices, credit notes, debit notes and other documents in respect of every sale made by the Principal will promptly be delivered to the Agent and that each month the Principal will furnish to the Agent a sworn statement from the executive officer in charge of sales of the Principal and from the auditor, treasurer, controller or other executive officer having full knowledge of all transactions of the Principal that the Principal has not to date disposed of any of its products covered by this Agreement except as shown on invoices, credit notes or debit notes already delivered to the Agent and that no rebates or commissions, direct or indirect, other than those already disclosed by credit notes or other documents delivered to the Agent, have been allowed or promised since the date of the execution hereof in respect either of the products covered by such invoices or of products theretofore sold (before or after the date of the execution of this Agreement) or to be sold for future delivery.

Clause 7. The Principal agrees that an auditor appointed by the Agent shall at all times have access to and may take extracts from all books, records and papers of the Principal

relating to sales made of products covered by this Agreement. "

(Serials 2081-82)

Expenses of operating Board Sales were to be pro-rated among the manufacturers according to their respective sales of the products covered by the agreement.

A "holdback" of one per cent of the value of sales of each manufacturer of products covered by the agreement was to be made during the first three years of the agreement "to assure to the Agent the performance of all the Principal's obligations under this agreement" (Serial 2083).

Failure on the part of a manufacturer to fulfil any obligation under the agreement could result, by resolution of a majority of the Board of Directors of Board Sales, in the forfeiture of any portion of the amount held back from the manufacturer. Provision was made in the agreement for arbitration if the manufacturer objected to the imposition of such a penalty.

3. Products Covered by Board Sales Agreement

Reference has already been made to the formation of Shipping Case Material Manufacturers Association and to the control by this association over container board which had been included among the products originally assigned to Board Sales.

In addition to the exclusion of container board in this way from the Board Sales agreement, all products sold in export markets were excluded and also the following products listed in Schedule "A", forming part of the agreement:

- "1. Paper in rolls for the manufacture of fibre wallboard for the producers own consumption in Canada and for own consumption and sale in U. S. A.
2. Plaster board and plaster lathpaper in jumbo rolls for sale in the U. S. A.
3. Bottle Cap Board.
4. Ticket Bristol.
5. Tag Board.
6. Index Board.

7. Bristol Board
8. Blanks.
9. Playing Card Stock.
10. Panel Board for automobiles."

(Serial 13126)

4. Determination of Prices Under Board Sales Agreement

Prices, terms and conditions of sale were determined at meetings of the Board of Directors of Board Sales and were set out in schedules. The following excerpts from minutes of Board Sales included among the exhibits are examples of the manner in which changes in prices were dealt with:

Minutes of December 29, 1938

"It was moved and seconded

THAT:

Effective December 30th, the following prices be effective on Schedule 'A':-

(Insert Schedule 'A')

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously.

It was moved and seconded

THAT:

Effective January 3rd, 1939, the following prices be effective on Schedule 'B':-

(Insert Schedule 'B')

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously."

(Serials 20788-89)

Minutes of June 5, 1940

"Various changes were adopted, following which it was moved and seconded

THAT:

The Secretary be and he hereby is authorized to issue a new price list, incorporating the changes and alterations authorized by the Board; and

THAT:

The new price list shall be effective on Thursday, the 6th day of June 1940."

(Serial 20949)

Minutes of May 29, 1941

"The meeting discussed the pricing of No. 2 Pulp.

After discussion, it was moved and seconded

THAT:

Effective at 9:00 a.m., on Friday, the 30th day of May, 1941, the price of Non-Folding No. 2 Filled Pulp shall be:

For 5 tons and over	-	\$67.00
" 2 " " "	-	69.75
" 1 ton " "	-	72.50
Under 1 ton	-	83.75

AND THAT:

Effective at 9:00 a.m., on Friday, the 30th day of May, 1941, the price for Folding No. 2 Filled Pulp shall be:

For 5 tons and over	-	\$74.00
" 2 " " "	-	77.00
" 1 ton " "	-	80.00
Under 1 ton	-	92.50

AND THAT:

The Minute of the Meeting of this Board of Directors adopted on the 25th day of July, 1940, restricting the supply of this grade to low and medium finish only be and it hereby is rescinded.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously. "

(Serials 21029-30)

5. Regulations Governing Credit and Interchange
of Credit Information

The minutes of meetings of the Board of Directors of Board Sales indicate that regulations relating to credit and credit information were adopted on March 8, 1938. The following is an extract from the minutes of this date:

"The Secretary submitted the Code of Regulations Governing Credit and Interchange of Credit Information which had been recommended by the Committee appointed to study these matters, which regulations read as follows:-

(Regulations to be inserted here)

After discussion, it was moved and seconded

THAT:

The Recommendation of the Committee be adopted and the Regulations submitted by them be put into effect forthwith.

The motion was put to the meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously. "

(Serial 20838)

The code of credit regulations is not in evidence but later references in the minutes of directors' meetings indicate that a monthly credit report was prepared showing current indebtedness of each customer whose account was respectively thirty days, sixty days, ninety days or more overdue. There is also indication that a policy was adopted which involved the placing of some customers with overdue accounts on a "cash-with-order" basis.

6. Observance of Standards for Products Under
Board Sales Agreement

Under the Board Sales agreement close attention was given to the quality of the products made by the different manufacturers and efforts were made to see that various types of paperboard were not made with superior quality to those for which standards had been adopted. It is clearly to be inferred that the offering of a boxboard with superior quality at the price fixed under the agreement was equivalent to the offering to the customer of a price advantage and would thus be contrary to the basis of the agreement.

The minutes of directors' meetings contain many references to discussion of the observance of standards, the adoption of specific samples as standard and the means taken to deal with complaints that standards were being exceeded. The following are a few examples of the record of such matters:

Minutes, June 28, 1938

"The Secretary submitted samples of various grades of Board which, in his opinion, were superior to the Standards established.

The matter was discussed at length, following which it was moved and seconded

THAT:

The present Standards for No. 1 and No. 2 Screenings be retained; and

THAT:

A continuing Committee composed of Messrs. J. W. Fitzgerald, G. A. Davidson and W. H. O'Reilly be and they hereby are appointed to review all samples which in the opinion of the Secretary exceed the Standards; and

THAT:

The recommendations of the Committee be placed before the next Meeting of the Board; and

THAT:

All Companies withdraw immediately from the hands of their salesmen samples of Screenings Board presently being shown; and

THAT:

All further sales of Screenings Board be made on the Standards.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously."

(Serials 20816-17)

Minutes, October 27, 1938

"The Report of the Continuing Committee to Review Samples was placed before the Board.

The discussion disclosed that strict adherence to the 'Standard' samples was essential and that procedure to be followed in case of an alleged transgression should be laid down. Following which, it was moved and seconded

THAT:

The Continuing Committee, acting with the Secretary, investigate daily outturn samples and all complaints of Board sold exceeding the 'Standards'; and

THAT:

A history of each complaint be prepared for presentation to the Board, and that copies of all case histories be sent to each Director for his confidential examination prior to the Meeting at which they will be reviewed; and

THAT:

When case histories are distributed each Director be advised of any complaints against his Principals so that he will be in a position to answer the complaint when it is placed before the Meeting of the Board; and

THAT:

Should a penalty be indicated, the Secretary recommend the amount to be assessed.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously.

Mr. Scowen's request to have samples of Screenings Board submitted to the last Meeting adopted as 'Standard' was considered.

After discussion, it was moved and seconded

THAT:

The request of Brompton Pulp and Paper Company Limited that this Screenings be classified as a No. 1 Screenings be granted, subject to the boxboard sold conforming to the dirt count in the 'Standard' No. 1 Screenings.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously."

(Serials 20799-800)

Minutes, October 24, 1940

"The question of No. 2 Wood Pulp was discussed at length, following which, it was moved and seconded

THAT:

Each Company, effective immediately, will withdraw all samples of No. 2 Filled Pulp in the hands of their customers, and

THAT:

The 'Standard' will be rigidly adhered to in the future; and

THAT:

The Secretary be and he hereby is instructed to provide each Director with a good supply of samples considered commercial matches to the 'Standard'; and

THAT:

The Committee discuss this grade with the Boxmakers at an early meeting.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously.

It was moved and seconded

THAT:

Messrs. C. M. Matheson, W. H. Palm and T. M. Whorton be and they hereby are appointed to act with Messrs. J. S. Babbitt and G. A. Davidson on the Continuing Committee to Review Samples; and

THAT:

Regular weekly Meetings of the Committee will be held in the Company's offices on each Monday afternoon at 1 P. M.; and

THAT:

Any two Members of the Committee, acting with the Secretary, shall be a quorum for a Meeting. "

(Serials 20927-28)

7. Collection and Discussion of Statistics Relating to Individual Company Operations

Although the Board Sales agreement had no specific provision for the collection of statistics, the requirement that copies of all records pertaining to sales be submitted promptly to Board Sales would have provided the latter with basic information from which various statistical series could be derived. However, it appears that statistics covering production and shipments on a weekly basis were secured from the member companies and that compilations of such data were presented at directors' meetings and discussed. The following extract from the minutes of a meeting of October 28, 1938, gives some indication of the nature of the statistics which were compiled:

"The Secretary presented comparative statements of Domestic Shipments for the first forty-two weeks of 1937 and 1938. He outlined his plans to issue at the year end comparative statements by grades of Production, Domestic and Export Shipments for the three years 1936, 1937 and 1938. He reviewed each Company's percentage of the Domestic market in boxboard grades for 1936, 1937 and the first forty-two weeks of 1938. He was advised that similar comparative statements would be found of interest if prepared for each Meeting. "

(Serial 20799)

8. Sharing of Shut-Down Expenses of Paperboard
Mill Through Board Sales

In 1936, Gair purchased the Dominion Mill in Toronto from Dominion Boxboards Limited. In December, 1937, the mill was shut down and from January, 1938 to October, 1939, the shut-down expenses of the mill were shared by members of Board Sales. The minutes of a directors' meeting of March 8, 1938 make the following reference to this matter:

"The carrying charges of the Gair Company, other than depreciation and interest on investment for the Dominion Mill for the months of January and February 1938, were submitted. The Secretary was instructed to collect these funds in accordance with the Minute adopted by this Company's Board at their meeting on the 29th of December 1937. "

(Serial 20836)

Further reference to the same matter appears in the minutes of a meeting of March 31, 1938, as follows:

"It was moved and seconded

THAT:

The levy sufficient to recompense the Gair Company's out-of-pocket expense in connection with the shut down costs of the Dominion Mill be continued for another sixty days, if necessary, on the same basis as before.

The motion was put to the Meeting and a vote taken. The vote disclosed that all Directors, with the exception of Messrs. Winlow, Fitzgerald and Matheson had voted in favour of the motion. These gentlemen announced that their votes would be mailed to the Secretary immediately after consultation with their Principals. The Chairman declared that if no dissenting vote be cast by mail, the motion would be declared to have been carried unanimously. "

(Serial 20827)

Arrangements to share the expenses of the Dominion Mill in this way continued to October, 1939. The last resolution dealing with the matter is recorded in the minutes of a meeting on September 28, 1939, as follows:

"It was moved and seconded

THAT:

The levy sufficient to recompense the Gair Company's out-of-pocket expense in connection with the shut-down costs of the Dominion Mill be continued during the month of October 1939.

The motion was put to the Meeting and a vote taken. The vote disclosed that all Directors present had voted in favour of the motion. In view of the absence of Messrs. Scowen and Thorn the Chairman declared that if no dissenting vote be cast by mail the motion would be declared to have been carried unanimously."

(Serial 20870)

The documentary evidence in the inquiry does not contain any details of the termination of the arrangements in regard to sharing the shut-down costs of the Dominion Mill but W. H. O'Reilly gave the following testimony:

"Q. Then what about the sharing in the shut-down costs of the Dominion Mill; what mill was that?

A. The Dominion Mill was the mill that the Gair Company purchased from Dominion Boxboard.

Q. Was that in Toronto?

A. In Toronto.

Q. It was shut down?

A. One moment; Gair had also purchased the mill of the Canadian Paperboard Limited which was shut down. As I remember it, Gair spent a great deal of money in rehabilitating the Canadian Paperboard Limited mill. In fact, they completely rebuilt the machine. They moved the tonnage from the Dominion Mill into the Canadian Paperboard Mill to give them better operation. Some time prior to this ---

THE CHAIRMAN:

Q. You mean prior to this document?

A. Yes, I cannot remember when, Gair suggested they found the shut-down costs of the Dominion Mill too heavy for them to carry and the other members of the Board Sales contributed to those shut-down costs for, I think, a period of about six months. Then they objected to sharing in the shut-down costs any longer and so advised the Gair Company. If my memory serves me, that is what that was.

MR. AHERN:

Q. Do you know eventually what happened to that mill?

A. Yes, Gair started it up and it is operating to-day."

(Evidence pp. 433-34)

It must be concluded that the shareholders of Board Sales contributed to the shut-down expenses of the Dominion Mill from January, 1938 to October, 1939, in order to ensure that the mill would be kept in idleness during this period. This was joint action on the part of members of an industry to limit facilities for producing and manufacturing and must have been intended to restrict production during the period when the arrangements to share the costs of a competitor were in effect.

9. Arrangements Through Board Sales to Control Premium
Price of Box-Cut Waste Paper

The following description of box-cut waste is given in the Statement of Evidence:

"This grade of waste paper is the trim which arises from the process of conversion of boxboard into folding cartons and set-up boxes and consequently originates only from the plants of box manufacturers. Normally it is purchased from them by waste paper dealers and sold to the board mills. It does not normally enjoy a premium in price over mixed waste paper in Canada except when such papers are in very long supply."

In 1938 prices of waste papers were apparently at a low level and box manufacturers were interested, it may be assumed, in increasing the return which they were securing from the sale of waste board produced in their manufacturing operations. From the viewpoint of the members of Board Sales the problem appears to have been regarded as a matter of avoiding any system under which, by offering a box-maker a higher price for such waste material a board manufacturer might gain an advantage over his competitors in supplying the box-maker with paperboard. Arrangements were made for the payment of a premium to box-makers in the Toronto, Montreal and Ottawa areas for purchases of box-cut waste over the price of mixed waste papers but the cost of the premium was pro-rated over the shipments of folding and set-up boxboards of all mills into the three areas. Reference to such action is contained in the following extract from the minutes of a directors' meeting of December 1, 1938:

"The Box-cut Waste situation was again considered and discussed, and an amendment to the resolution presented to the preceding meeting was offered, following which

It was moved and seconded

THAT:

The premium presently being paid for Box-cuts over the price of Mixed Papers in the Toronto, Montreal and Ottawa areas shall, effective October 1st, 1938, and until March 31st, 1939, be pro-rated over the shipments of Folding and Set-up Boxboards of all Mills into those areas; and

THAT:

A Committee consisting of Messrs. Thorn, Weldon, Winchell and Brown be and it hereby is appointed to evolve a better solution to this problem provided the price of Mixed Paper has not reached the level of the present price of Box-cuts (both in the Toronto area) by March 31st, 1939.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously."

(Serial 20793)

At first the basis of pro-rating the premium was limited to a price of box-cut waste not in excess of \$10.00 per ton. Then the premium was set as the difference between the prices of box-cut waste and mixed waste papers delivered at the mill but not to exceed \$4.00 per ton. From June 1, 1939, the maximum premium was limited to \$2.00 per ton. In September, 1939, the price of mixed waste paper advanced to the level of the price being paid for box-cut waste and the payment of a premium was discontinued. The following extract from the minutes of a directors' meeting of October 26, 1939, describes the arrangements which had been in effect from June 1, 1939, and the manner in which the premium was discontinued:

"The Report of the Committee to Consider Box-cut Waste, reading as follows, was considered:-

'At the Meeting of the Board of Directors of Board Sales Limited held on Thursday, the 27th of October 1938, the following resolution was adopted -

"THAT:

When the price of Mixed Paper reaches the level of the present price of Box-cuts (both in the Toronto Area) mills purchasing Waste shall thereafter do so ONLY from Waste Dealers and NOT direct from Box-makers."

Pro-ration of the premium over the shipments of Folding and Set-up Boards of all Mills into the Toronto, Montreal and Ottawa Areas was begun as of October 1st, 1938.

This has continued each month since, and from June 1st, 1939, has been done in accordance with the recommendation of this Committee which was adopted by the Board at their Meeting held on the 30th of May 1939. The recommendation reads as follows:-

"They recommend, therefore, that from June 1st to December 31st, 1939, in each consuming area (Toronto, Montreal and Ottawa) the premium paid for Box-cut Waste over the price of Mixed Papers shall be pro-rated over the shipments of Folding and Set-up Boxboards of all mills into each area on the following basis:-

- (a) The actual price for Boxboard waste delivered at the mill shall be determined.
- (b) The Mixed Paper price delivered at the Mill from the same city or district shall be determined.
- (c) The premium shall be the difference between (a) and (b) but in any event shall not exceed \$2.00 per ton in any individual case.
- (d) In any instance from June 1st 1939 to December 31st 1939, where more than \$2.00 a ton over the Mixed Paper Price is paid for Box-cut Waste, that instance shall be tabled for the information of the Directors.
- (e) (i) While the price of Box-cut Waste may be further reduced it shall not be increased until a rising market has eliminated the premium over Mixed.
(ii) Thereafter Box-cuts shall be purchased only from Waste Dealers.
- (f) Any exception to (e) (ii) shall immediately be tabled for the information of the Directors.

The Committee also recommends that a Committee be appointed to follow this situation from month to month,

to bring in further recommendations regarding it from time to time, but in any event not later than December 31st, 1939. The Committee to be appointed should have constructive recommendations from each Company."

Effective September 18th, 1939, a rising market for Waste Papers in the Toronto Area eliminated the premium previously paid for Box-cut Waste.

We now recommend that -

1. Effective September 18th, 1939, Paras. (e)(ii) and (f) of the Recommendation adopted on May 30th, 1939, be put into operation and remain in operation until formally rescinded by the Board.
2. Para. (f) be fulfilled by providing each Director with a monthly list of such instances for his confidential information, by registered mail.
3. Invoices covering all purchases of Box-cut Waste be submitted to Board Sales each month accompanied by a resume of the invoices bearing the following declaration -

I, _____, of the City of _____
having full knowledge of all the facts herein
depose to do solemnly declare that this
statement of purchases of Box-cut Waste by

Name of Company
for the month of _____ 19 _____, is
full and complete, and I have signed

(Officer making return)

Witness _____, _____

It was moved and seconded

THAT:

Paragraph (e)(ii) of the Recommendation adopted on the 30th of May 1939 be and it hereby is amended to read as follows:-

'Hereafter Box-cuts shall be purchased only from Waste Dealers at the price of Mixed Papers or less.'

and

THAT:

With this amendment the Recommendation of the Committee be and it hereby is adopted.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried. Mr. Finlay refrained from voting."

(Serials 20861-63)

The arrangements in regard to the payment of a premium for purchases of box-cut waste were obviously designed to maintain, by agreement, a maximum price which the mills would pay for such material and thus avoid competitive offers by individual members of Board Sales. The pro-rating of the cost of the premium over all mills making shipments into the areas in which the premium was paid also limited competition between the mills by making the premium the contribution of all mills rather than that of the mill actually securing the box-cut waste. This was an indirect way of maintaining uniformity of price as a premium for box-cut waste arrived at by competitive offers might be regarded by the box-maker as an inducement to place his orders for boxboard with the mill offering the best price for box-cut waste. It is evident that in this case and in that of the sharing of the shut-down expenses of the Dominion Mill the arrangements resulted in some manufacturers assuming costs which did not arise out of the operations of their own mills.

CHAPTER IV

EFFORTS TO FIND NEW FORM OF AGREEMENT AS A RESULT OF CONTAINER MATERIALS CASE

1. Inquiry under Combines Investigation Act into Shipping Containers and Container Board

In 1938 the Commissioner under the Combines Investigation Act began an inquiry into the manufacture and sale of corrugated shipping containers and the classes of paperboard used in their manufacture. In a report made in 1939 the Commissioner stated that, having examined in detail the agreements which formed the basis of the operations of Container Materials Limited, an association of shipping case manufacturers, and of Shipping Case Material Manufacturers Association, he was of the opinion that both associations had operated and were likely to operate to the detriment and against the interest of the public. Following the publication of the Commissioner's report, the members of the two associations were prosecuted and all were convicted. In the Container Materials case, appeals were taken against the convictions to the Supreme Court of Canada which upheld the convictions in a judgment delivered on February 3, 1942. It will be recalled that members of the Shipping Case Material Manufacturers Association were also members of Board Sales and two of the former were also members of Container Materials Limited.

The launching of an inquiry under the Combines Investigation Act appears to have caused immediate concern as to the legality of the Board Sales agreement and the judgments of the courts which followed led the members to dissolve Board Sales Limited.

A memorandum prepared by W. H. O'Reilly, then Secretary-Treasurer of Board Sales and bearing the handwritten notation and date "Confidential Sept. 21, 1938" contains the following:

"In 1934 those members of the Board Section of the Canadian Pulp and Paper Association who manufactured box boards and who wished to bring to the Industry a degree and [sic] stability and control not then enjoyed, developed a plan for a Central Sales Organization. Under the plan the Selling Company would invoice all shipments of board and make all collections and, after deducting a sum for operating expenses and a further sum as a guarantee fund, remit the balance to the Manufacturers.

Board Sales Limited was brought into being as the Selling Organization. Contracts were negotiated between it and the various Manufacturers whereby the Selling Company was appointed the sole Selling Agent for the Manufacturers for box-board grades. The Board of Directors of the Selling Agent was made up of one representative of each Manufacturer. Prices, grades and terms of sale were agreed upon and enforced. The Selling Company did not, however, invoice the consumer nor make collections. While it had the right to do so, these powers were relegated to the individual Manufacturers. The Selling Company received all copies of orders, invoices and credit notes and received an affidavit from each Manufacturer each month that it had received all documents to which it was entitled and that the Manufacturer had made no sale other than disclosed by these documents.

In addition to Board Sales, there was set up by the four Manufacturers interested in materials for corrugated containers, the Shipping Case Material Manufacturers Association which controlled, outside of Board Sales, all sales of shipping case materials made by the four Companies primarily interested in these grades.

The idea of a Central Sales Organization was not entirely new as a similar organization called Container Materials Limited was being used as a control by Manufacturers of shipping cases.

Board Sales has operated officially since the 1st of March, 1935. Its main functions have been agreement on prices, terms and grades. How well it has fulfilled these functions can be judged by the fact that in a declining market, which began in April 1937, no decline in price has taken place; hence, the Manufacturers can attribute to their collective efforts through Board Sales, the prices they are now enjoying rather than prices fifteen to twenty per cent below the current level. Its secondary functions have been the collection and dissemination of credit information, weekly operating figures and a General Information Bureau for the benefit of the Board Industry.

These secondary functions seem to have been of great value to the Industry. The interchange of credit information has, we are informed, been of inestimable value to the Credit Department of the various Companies. The weekly operating statistics have done a great deal to allay suspicion in the minds of Manufacturers that certain mills were obtaining a far greater percentage of the market than would seem to be their share on past records. They have as well shown the use to which the box boards have been put in container plants, folding carton plants and set-up box plants.

Two potential dangers to the life of Board Sales are apparent: First - If Container Materials Limited broke up through dissension or through an adverse finding of the Commissioner of the Combines Investigation Act, it would seemingly involve the break-up of SCMMA, which would in all probability mean the disintegration of Board Sales. In view of the basic idea underlying both Container Materials and Board Sales being the same, i.e., a Selling Company controlling prices, an adverse finding of the Commissioner under the Combines Investigation Act in his investigation of Container Materials, would indicate that we might anticipate a similar result, should he pursue an investigation of this Company. Second - Slackening business in the domestic market leads to more intensive competition amongst the Manufacturers and leads to making concessions on grades or on yields which are just as bad as concessions in price. The sweetening of grades, particularly of Screenings grades and the increase in yield is fairly widespread today. If this be unchecked it will most certainly lead to the final disintegration of Board Sales.

Any disintegration of Board Sales would mean that its activities would cease with it, which seems a pity. If, however, an adverse decision were given by the Commissioner of the C. I. A. against Container Materials, the chances are that Board Sales should abandon its main functions. Its secondary functions should not be allowed to perish and its main functions should be replaced by a Bureau for the dissemination of information on prices and grades. It would be essential for the Bureau to have a hard and fast contract with each Box Board Manufacturer for a minimum period of five years. On its part, it would agree to gather and distribute statistics on operation, credit information, prices and grades of board in the domestic market. Each Manufacturer would submit to the Bureau copies of all orders taken showing tonnage, grade and price. Each Manufacturer would submit to the Bureau twelve samples from each order filled. Each sample (say 4 x 10") should show the mill, the grade, the price and the date the order was taken. These samples should be sent to the Bureau daily. The bureau would send [sic] each Company daily samples from all other mills so that the Sales Organizations would be in possession of complete information at all times. In addition the Bureau would send each Company weekly a summary showing the prices for grades on orders taken during the preceding week. It is submitted that this summary could divide the domestic market into four zones, i.e., the Maritimes; Quebec and Eastern Ontario; Central Ontario; Winnipeg and the West.

As this Bureau would be an Information Bureau pure and simple, there would be nothing to prevent any Manufacturer taking an order for any grade at at [sic] any price. Each Mill

would, of course, concentrate on the grade, or grades, it was best suited to make and the cost of those grades to the boxmaker would be determined by cost of operation, plus reasonable profit in and carrying charges from the most efficient Mill.

Each Mill would also market at a price grades suitable for the use, but in no case any better than the use required; hence, with the abolition of the ultra superior grades being marketed today, the way would be clear for Mills to make a tremendous saving in furnish costs, which would in part recompense them for lower prices to the consumer.

It is submitted that no industry as an industry has made progress or has materially increased production by any means except the constant reduction of cost of the product to the consumer and the constant betterment of the product. The Automobile Industry would not be the mammoth it is today if the prices of moto[r] cars and models of motorcars of twenty-five years ago still prevailed. Progress was only possible by selling at constantly reduced prices and improving models, so that today the buyer of a motorcar may purchase for a few hundred dollars what twenty-five years ago would have cost him ten times as much. Does not the same economic truth hold good for the Board Industry and for its affiliate the Box Industry? If packaging in this country is to progress and expand, better boxes must be sold at lower prices. To achieve this the price of board going into the boxes surely must be reduced to the lowest possible level. The lowest possible level means, of course, the lowest level at which it is possible for the most efficient Manufacturer to make a reasonable profit.

It is submitted that with price and grade restrictions removed the demands of the Packaging Industry for boxes would expand with comparatively great acceleration [sic] and the Mills would very soon be operating at a much higher percentage of capacity.

It is submitted that the cost of such a Bureau would not exceed the present cost of Board Sales, but it would be essential for the Bureau to be at liberty to perform a similar service for any other Industry, so that with its growth, the cost of operation to the Board Industry might well be reduced from time to time."

(Serials 2147-50)

It will be noted that the date of the foregoing memorandum is prior to the conclusion of the inquiry under the Combines Investigation Act. After the publication of the Commissioner's report, W. H. O'Reilly drafted further memoranda in which he outlined possible courses of action for consideration in the event that the agreements

under which Container Materials Limited and S. C. M. M. A. operated were condemned by the Courts. Among the exhibits are several draft memoranda and notes which W. H. O'Reilly revised during 1939. This material contains Mr. O'Reilly's description of and comments on trade association practices in various branches of the paper industry in the United States. The latest memorandum in this group is one dated November 28, 1939. Mr. O'Reilly gave the following evidence as to its distribution:

"A. So far as I can recall, it was only a memorandum. I may have gone over it with various people. I probably did. I may have given copies to various people, but I do not remember issuing it to every one."

(Evidence, pp. 431-32)

This memorandum reads as follows:

"The Report dated March 14th, 1939, of the Commissioner of the Combines Investigation Act, of an investigation into an Alleged Combine in the Manufacture and Sale of Paperboard Shipping Containers and Related Products, resulted in the Federal Government undertaking the prosecution of the Members of Container Materials Limited and SCMMA.

The prosecution must result in either a verdict for or a verdict against the defendants.

If the trial results in an acquittal, Board Sales should stand a very good chance of successfully defending its activities in the event of its being investigated and prosecuted.

If the prosecution results in a verdict against the defendants we may then anticipate that in the event of our being investigated and prosecuted we too would be found guilty.

In the event of a verdict against the defendants we must seriously consider what road or roads are open to us.

First - we could continue as we are and risk investigation;

Second - we could wind up the Company and abandon all our activities; or

Third - we could revamp the activities to which exception may be taken and carry on to a future of service.

If we follow the first road we will stand constantly in the shadow of an investigation and possible prosecution. This does not seem advisable.

If we follow the second road each Manufacturer will proceed without the benefit of association with his competitor and with no exchange of market information. A blind market such as this would invariably respond to rumours circulated throughout the Trade, prices and grades would be open to constant attack by buyers, and the mills would have no defense whatsoever against them. This too seems undesirable.

The third road therefore seems to be the one to follow.

We submit that the only activities upon which we could be found guilty are agreement on prices, terms and grades, pro-ration of box-cut waste premium, with some question as to whether sharing in the shut-down costs of the Dominion Mill was not an act tending to limit production.

The question of box-cut waste premium has been solved by a rising market for waste and we hope will not again confront us.

The shut-down costs of the Dominion Mill disappeared with that mill's coming into production, so that we need not now consider it.

There remains, therefore, agreement on price, terms and grades.

The fundamental reason for the formation of Board Sales was the need felt for some agency to police the activities of the various members who had been operating within the Board Section under a so-called 'Gentleman's Agreement'. Board Sales would not have been formed had there been no necessity for a policing agency.

The success of a Gentleman's Agreement depends, first - upon the honesty of purpose of its members, and second - their mutual confidence in each other. Mutual confidence is constantly being attacked and honesty of purpose undermined by buyers. The group is very vulnerable to rumours circulated by the Trade. Those who adhere to the Agreement are at the mercy of those who fail to do so. Those who adhere, while adhering, have no defense that can be used against those who do not. Those who adhere, if hurt by those who do not, are apt to withdraw at any time thereby threatening the continuity of the effort. We believe the odds to be very much against the prolonged successful life of such an effort. Our experience leads us to believe that buyers have a natural antagonism to concerted action tending to maintain prices. We believe that the Commissioner of the Combines Investigation Act holds the view that any agreement on prices between competitors, if reached by

collusion, constitutes an illegal combine within the meaning of the Act. Hence if an Agreement on price exists it is probably open to prosecution. We could not, therefore, recommend a return to the so-called 'Gentleman's Agreement'.

After a review of Trade Association Practices in the United States we have reached the conclusion that the open pricing plan, as developed by Mr. Frank H. Baxter, might well be adopted by the Board Industry in Canada. No Agreement of any kind exists on price, terms, conditions or grades, hence no case for prosecution could possibly be made out. Each Manufacturer retains his individual rights as to price policies or defensive selling procedure. He is at liberty to sweeten his grades to meet competition or to try to gain business. He is at liberty to offer grades of a lower quality at a lower price. He retains every vestige of liberty of action so that he can do anything he wishes in the market at any time without restriction.

The question may well be asked - How can such a course of procedure be adopted without a resultant chaotic condition in the market?

The answer is Publicity.

Fullest possible publicity is given to all transactions. Each Manufacturer signs an agreement with the Central Bureau whereby he agrees to provide the Bureau with complete information on his general price policy, his discounts and up-charges, his terms and conditions, samples of the grades he proposes to sell and the prices at which he proposes to sell them. He agrees to provide complete information on each and every transaction he enters into in which there has been any deviation whatsoever from his general policy as filed. For instance, if a price lower than the published price is quoted - that is a deviation. If a grade cleaner or brighter than the sample filed with the Bureau is offered for sale - that is a deviation. If a count higher than the count shown in the Manufacturer's published Gauge List is offered or given - that is a deviation. If a discount for payment or quantity greater than the discount published is allowed or offered - that is a deviation. If terms beyond the terms published are allowed - that is a deviation. If published up-charges for quantity or secondary operation are not enforced - that is a deviation. Settlement with customers for defective products shipped are deviations. Disposal of off-cuts, side-runs, culled or rejected board at prices less than the published list are deviations. In fact any change whatsoever from the complete information on the general price policy as filed is considered a deviation.

The general price policy of all Manufacturers with

discounts, up-charges, price lists, gauge lists, etc., would be published in one volume, copies of which would be available to each signatory. A complete range of samples of each Manufacturer to accompany his price list would be compiled and made available to each signatory. Changes in the general price policy or in the grades can be made at any time provided that the Bureau is informed. The Bureau, of course, immediately informs each signatory. All deviations from the published procedure would be compiled as often as necessary in the Bureau Office and copies sent to each signatory. This would result in each Manufacturer having constantly before him correct and reliable information upon which to make his decisions in the conduct of his own business.

We believe that our Members may be expected to make sound decisions if they are well informed and have confidence in their information.

Immediately after a verdict is brought down in the present case we must consider, and seriously consider, what we shall do. The adoption of the open pricing plan outlined above would require a highly trained staff to administer the plan. We have the nucleus of that staff in Board Sales. It is highly improbable that the plan could be administered without adding to the staff. It is certain that it could not be inaugurated without temporary, if not permanent, assistance. We estimate that the cost would approximate 15¢ a ton. It might be higher.

Under such a plan the Weekly Operating Report, Interchange of Information on Orders, Monthly Comparison of Shipments by Grades, Monthly Credit Reports, etc., could all be continued without interruption.

The change over from our present procedure could be done, we estimate, in about three months, during which time there should be no interruption in any of our activities.

With no agreement on price and with no agreement on grades we may anticipate a transitional period in which prices and grades will fluctuate perhaps violently. At the end of that transitional period, however, the Industry should have a price list which really means something instead of the forced arrangement of prices that we have at the moment. The Industry should also be supplying grades extremely suitable to the uses to which they are put and these would be supplied, of course, at the lowest possible cost to the consumer. The lowest possible cost will undoubtedly prove to be that at which the most efficient mill can make a satisfactory profit. There will, therefore, be a constant incentive for mills to increase their efficiency, with corresponding benefits to the Industry as a whole."

(Serials 2152-56)

The exhibits in the inquiry do not indicate what further consideration, if any, was given at this time to the question of changing the basis of the Board Sales agreement. It will be recalled that the judgment of the Supreme Court of Canada in the Container Materials case was not delivered until February, 1942, a few months after the imposition of overall price ceilings under the Wartime Prices and Trade Board.

2. Wartime Control of Paperboard Industry

During the period of wartime regulation the control of boxboard was administered under the Wartime Prices and Trade Board through the Pulp and Paper Administration, one division of which had authority with respect to paperboard. The Administrator of Paperboard under the Wartime Prices and Trade Board was W. H. O'Reilly.

The overall price ceiling which came into effect on December 1, 1941, established maximum prices for boxboard, along with all other commodities embraced by the regulations. Maximum prices of boxboard were maintained by the Wartime Prices and Trade Board until June 9, 1947, although prior to the lifting of price ceilings certain price increases were authorized.

Under the Wartime Prices and Trade Board various programmes of simplification and conservation were undertaken to permit the greatest output from available resources. The following description of the steps taken in relation to paper products, including boxboard, is given in the W. P. T. B. report issued in 1943:

"A variety of simplification measures have been applied to the manufacture of finished paper products. Specifications have been laid down for types and grades of corrugated and solid fibreboard cartons. Stocks of cardboard for folding and set-up boxes have been placed under control, and manufacture has been limited to certain types and sizes. The grades and thicknesses of paperboard for shipping cases, folding cartons and set-up boxes have also been restricted."

The simplification and conservation measures relating to paperboard, including boxboard, remained in effect for a longer period than price control and were not withdrawn until December 31, 1947.

3. Further Consideration Given to Reorganization of Board Sales Agreement

The evidence in the inquiry shows that when further consideration was given to reorganization of the Board Sales Agreement the first approach was to develop a form of open price plan. A proposal of this kind was advanced by W. H. O'Reilly in a memorandum dated February 4, 1943, a copy of which was sent to Bathurst. The memorandum read as follows:

"Since the decision of the Supreme Court in the Container Materials Limited case, we have believed that it will be necessary to liquidate Board Sales Limited and replace it with some other organization,

Our reasons for believing liquidation to be necessary are:-

- (a) Agreement on price, terms and grades may be thought to be 'undue' restriction of competition;
- (b) Pro ration of the Box Cut Waste premium, which is now a thing of the past, might be held against us in the event of an investigation, if we continue as Board Sales, and
- (c) The previous sharing in the shut-down costs of the Dominion Mill might be construed as an act tending to limit production, and hence an 'undue' restriction of competition.

What form should the new organization take, and what method should it follow? We submit that the method to be followed by the new organization should be decided first.

GENTLEMEN'S AGREEMENT:

A so-called 'Gentlemen's Agreement' was in effect prior to the organization of Board Sales. Had it been successful, Board Sales would not have been formed. Hence we must assume that the 'Gentlemen's Agreement' will not work satisfactorily and that we will not return to it.

PRICE METHOD:

There is the 'Price Method'. This school of thought follows the theory of a price to be announced by one or more 'price leaders', who may be followed by the remainder of the industry. The leader issues a price list, which is sent to the Secretary of the group and to the trade generally. The

Secretary notifies all other members regarding the announcement. They follow or not, as they see fit. This method is used by some associations in the United States, but is not regarded as suitable for our Paperboard Industry. In the United States the published price lists are regarded only as guides, and are not strictly adhered to even by the companies publishing them. Invariably one or more large customers demand and receive something under the published price. In the event of a price decline, the reduction is general within twenty-four hours, but in the event of an increase, from two to three weeks may elapse before the effectiveness of the increase can be judged. This method does not work entirely satisfactorily. It is more honoured in the breach than in the observance.

INVOICE ANALYSIS:

There is the 'Invoice Analysis Method' whereby all invoices for all grades are submitted to the Secretary of the group who reduces them to one or more denominators and publishes the results. As goods are not manufactured and shipped until some time after the order is taken, the prices published can be regarded only as an historical record of transactions which have taken place from one to six weeks previously. It provides a guide to the price trend, but because of the delay, we do not believe that this system would be suitable here.

OPEN PRICING POLICY:

This brings us to the 'Open Pricing Policy', which has been followed successfully in the United States by the Tag Manufacturers Institute.

First: There is definitely no agreement on price.

Second: The Institute is operated by an independent organization.

Third: Each member of the Institute signs an Agreement with the organization whereby he agrees to provide the organization with complete information on his general price policy, his grades manufactured, his discounts and differentials, his price lists as published [sic] to the trade, and complete information on every transaction containing any deviation from the standard practices as filed.

Fourth: Provision is made for liquidated damages in each instance of failure to give the organization full and correct information promptly.

Fifth: The deviations from the published price lists are compiled daily and sent to each member. Hence all members are

constantly informed of the prices at which transactions have taken place, and are so informed within three to four days of the offer having been made.

This is the method that we strongly recommend be followed in Canada.

Under this method, as of the effective date of the Agreement:-

- 1 - Each member shall recall all samples in the hands of his salesmen.
- 2 - Each member shall supply the organization with samples of each grade he is prepared to offer. Each sample shall show the manufacturer's name, the grade and the date sent to the organization.
- 3 - The organization will distribute samples to the manufacturers' salesmen and each other manufacturer.
- 4 - Should the manufacturer desire fresh samples to be used in the hands of his salesmen, the procedure outlined above must be followed.
- 5 - No salesman may show a sample which has not been issued by the organization.
- 6 - Should the manufacturer be required to match a sample which is different in any respect from his filed grades, he will advise the organization of his intention, and provide samples for distribution when the paperboard has been manufactured.

Each member shall file a Declaration of Polich [sic] in regard to prices, terms and all other matters affecting price, some of which are covered in the draft Declaration of Policy, comprising Schedule 'A' attached to this memorandum. When an offer has been made which deviates in any way from the manufacturer's published list, he will advise the organization in the form or substantially in the form of the blank report shown on Page 9. The organization will compile the deviations and publish them in the form or substantially in the form of the blank report shown on Page 10.

The form the new organization should take is a matter for the members to decide. A non-profit organization could be formed by the group with any name that is thought suitable, or the individual members of the group could enter into a contract with an independent body who could, and would, operate the system.

It is estimated that the expense of operating this system would amount to \$33,000.00 per annum or approx. 25% more than Board Sales.

(Estimate of Feb., 1943)"

(Serials 14529-31A)

Attached to the copy of the memorandum was Schedule "A" referred to therein and a draft form of agreement.

The appointment of a committee to study the reorganization of the Board Sales agreement is indicated in the following extract from a letter of March 4, 1943, from W. H. O'Reilly to G. W. Brown then President of Gair and now deceased:

"At yesterday's Meeting of the Board, a Committee was appointed to study a reorganization of the Board Sales Agreement and a plan of operation which might follow. I enclose a copy of some pages of a memorandum which I wrote on February 4th, the original of which is now in the hands of L. A. Forsyth, K. C.

. . ."

(Serial 2506)

The nature of the enclosure is not further indicated but it will be noted that the date given for the memorandum is the same as that of the memorandum quoted above.

The committee of Board Sales worked on the development of a draft agreement until July, 1943, at least, using as a basis some form of open price plan. This is indicated by the following quotations from letters to G. W. Brown from W. H. O'Reilly:

Letter, April 27, 1943

"As requested at the last Meeting of the Committee, I am enclosing herewith three draft copies of the Agreement based on the Open Pricing Policy. Schedule 'A', to be attached to this draft Agreement, will be forwarded to you in the course of a few days.

In order that the Committee may have an opportunity of discussing the enclosed draft Agreement, it is proposed that a Meeting of the Committee should be held on Tuesday, May 4th, the day preceding the Board Sales Meeting.

I would appreciate your 'phoning or wiring me immediately upon receipt of this letter as to whether or not you will be

able to attend the Meeting as proposed."

(Serial 2511)

Letter, June 24, 1943

"At the last meeting of the Committee to consider a new agreement, Messrs. Cockerill, Jeckell and the writer were instructed to draw up a draft agreement between this Company and the various manufacturers of paperboard.

I am enclosing three copies of the Draft herewith. This will be considered at a meeting of the Committee which will be held in Salon 'A' at the Windsor Hotel at 10 a.m. on Tuesday, 6th July 1943.

We would appreciate your clearing this agreement with your solicitors prior to that date, if you think it advisable to do so."

(Serial 2550)

Letter, July 13, 1943

"As discussed at the last Meeting of the Committee of Principals, I am enclosing herewith three copies of the draft Agreement covering the corrections discussed at the last Meeting, with the addition of a clause more specifically stating the indemnity to the Statisticians."

(Serial 2561)

Although, as indicated by the foregoing quotations, the preparation of a draft agreement based on the open pricing plan was actively pursued for a considerable time, this form of arrangement was not the one actually employed when Dominion Paperboard Limited was organized in 1944. One explanation for not adopting the open price plan is contained in a memorandum written a number of years later by N. B. A. Fair of Eddy to the General Manager of the company. This memorandum, dated August 16, 1949, reads as follows:

"BAXTER PLAN OF OPEN PRICING

Attached hereto is letter from Mr. W. H. O'Reilly, Secretary, Dominion Paperboard Limited, also a copy of the Tag Industry Agreement of 1940 as well as a copy of the judgment of the U. S. Court of Appeal of October, 1948, covering the case of the Tag Manufacturers Institute et al, Petitioners, vs Federal Trade Commission, Respondent.

When Dominion Paperboard Limited was formed years ago consideration was given to the idea of adopting the 'Baxter Plan of Open Pricing' such as used by the Tag Manufacturers Institute, operated by Frank H. Baxter Association. At that particular time all such types of price agreement were under fire by the Federal Trade Commission and it was not thought well to adopt any method which might be considered illegal by the Federal Trade Commission at some later date, although the interested parties could see considerable merit in the Baxter Plan. It now develops that the Federal Trade Commission lost a case against the Tag Manufacturers Institute and the judgment covering it is attached hereto.

We thought that you would be interested in reading this as it may develop, in due course, that the Board Manufacturers of Canada may wish to change from Dominion Paperboard Limited to some other system and frankly, we think that the Baxter system might be of interest to us.

When you have an opportunity we wish to discuss this with you."

(Serial 25889)

It is also in evidence that Hinde & Dauch took the same attitude toward the open price plan as was later taken with respect to Dominion Paperboard Limited. Mr. O'Reilly said in evidence:

"A. They [Gair and Hinde & Dauch.] would not accept the open pricing policy or the new proposal because they felt that, although the other companies thought that the Dominion Paperboard Limited arrangement would be perfectly legal, Mr. Charles E. Frohman, Sandusky, Ohio, of the Hinde & Dauch in the United States, refused to permit Hinde & Dauch to enter either the open pricing policy or the Dominion Paperboard Limited arrangement until there was some guarantee of legality. Mr. Frohman, having taken that attitude, it was followed by the Gair Company in New York as well. Therefore, neither the open pricing policy nor the Dominion Paperboard Limited arrangement was acceptable to either Gair or Hinde & Dauch."

(Evidence, pp. 437-38)

In 1944, there were new negotiations looking to an agreement in different form to an open price plan and these led to the organization of Dominion Paperboard Limited in August, 1944, as will be presently described. While these negotiations were proceedings, Gair and Hinde & Dauch resigned from Board Sales as of May 31, 1944, and the agreements with respect to the remaining companies were extended from May 31 to August 31, 1944.

Efforts were made to continue the collection of comprehensive statistical information from boxboard manufacturers even though Gair and Hinde & Dauch were no longer members of Board Sales.

The attitude of Hinde & Dauch toward the compilation of industry-wide statistics is indicated in a letter dated May 1, 1944, from that company to W. H. O'Reilly, reading as follows:

"You have our advice that our Company cannot become a member of your Association. We are willing, however, to follow this policy:

As part of an industry-wide compilation of similar statistics for purposes of dissemination among those interested, we would be glad to furnish information on costs of manufacture, volume and kind of production, inventory, transportation, etc. We would also furnish information as to credit standing of paperboard consumers of whom we have knowledge, and prices received for paperboard in past transactions.

We would not furnish copies of or information about invoices, orders, contracts or other data identifying individual customers or transactions, nor permit any audit of our books for such purpose, unless the compilation of such statistics is for the sole purpose of inclusion in industry-wide tabulations which will not identify any transactions directly or indirectly.

We will not agree upon prices or upon any statement of policy for future pricing, although we will be glad to notify the Association at the same time that we give our customers any advance price advice.

The information which we furnish to the Association shall be for statistical purposes only, and we are to receive reports containing information of the character supplied by us, compiled for industry use, of which our statistics are a part. In other words, any information furnished would be on the understanding that we would receive similar information covering the operations of all reporting and/or enjoying such statistics.

We will also be willing to pay a reasonable price for the furnishing to us of the industry statistics, based upon the cost of their preparation. Arrangements reviewing the cost of such preparations can be made from time to time and the amount agreed upon between us.

If you desire us to proceed along these lines, please advise."

(Serials 2194-95)

At a directors' meeting on May 29, 1944, when the resignations of Gair and Hinde & Dauch from Board Sales were made, a motion was passed authorizing the exchange of statistics with non-member companies. This action was recorded in the minutes of the meeting as follows:

"A discussion took place as to the company's statisticians, W. H. O'Reilly & Co., providing statistics, secured from shareholders of this company, to companies other than shareholders.

Following the discussion, it was moved and seconded

THAT:

W. H. O'Reilly & Co. may make this company's statistics available to other than shareholders of this company, provided that statistics on the sales of the subscribing company are submitted for compilation, the fee to be charged for such services to be left at the discretion of W. H. O'Reilly & Co.

The motion was put to the Meeting and a vote taken. No dissenting vote having been cast against the motion, the Chairman declared it to have been carried unanimously."

(Serial 2652)

On May 29, 1944, which was the same day as the meeting of Board Sales, W. H. O'Reilly wrote to Gair in regard to the exchange of statistics, as follows:

"As from June 1st, 1944, we are prepared to provide you with:

- (a) Current and cumulative weekly statistics on production and shipments of paperboard.
- (b) Weekly order situation in both domestic and export markets.
- (c) Monthly credit information.
- (d) Monthly cumulative comparison of your sales in both domestic and export markets for both container board and boxboard grades.
- (e) Monthly compilation of the total tonnage in each grade of boxboard sold in Canada.

We will obtain similar information from the twelve major producers of paperboard in Canada.

The appropriate forms upon which you will provide necessary information will be forwarded to you from time to time for items (a), (b) and (c). The information in (d) above will be compiled from time to time in this office from the information you have given us for (a).

To enable us to make the compilation referred to in (e), it will be necessary for you to provide us with certain information from your invoices. You have already seen the compilation that we propose, and know that it does not identify any transactions either directly or indirectly.

Our price to you for these services will be \$280.00 a month.

This letter is written in duplicate original. If the above meets with your approval, would you be good enough to note your acceptance on the duplicate and return it to us for our files.

Payment for services rendered should take place not later than the fifteenth day of the month following."

(Serials 2633-34)

This letter was endorsed as requested and indicates that Gair continued the interchange of statistics. Reference to the attitude of Hinde & Dauch in regard to similar statistical interchange was made in a letter of June 9, 1944, from G. W. Brown of Gair to the President of Gair's parent company in the United States. Mr. Brown wrote:

"I am attaching copy of the O'Reilly letter of the 29th in connection with the statistical information he is prepared to supply and in connection with paragraph which I have marked with an 'X', Mr. Winchell [Hinde & Dauch] informed me by phone today that Mr. Charles Frohman [Hinde & Dauch, U.S.A.] has objected to their supplying invoices in line with their advice to O'Reilly under date of May 1st, paragraph three, in which they stated that they would not furnish copies of invoices, etc.

Lute [Winchell] told me that he told Mr. Frohman that it would be necessary to supply these invoices if we hoped to get the statistical information we desired.

I discussed it with George Willoughby [Gair] and he thinks that for the next few months it will be quite in order to provide invoices, stating at the same time that you have to take a chance on something.

Lute has promised to let me know if there is any change

in Mr. Frohman's attitude and I will phone you on Monday regarding what action we should take."

(Serial 2640)

Board Sales ceased active operations on August 31, 1944, and before the end of the year steps were taken to surrender its charter. According to a letter of October 4, 1944 from Board Sales to Gair "The winding up and liquidation of this Company was anticipated prior to your withdrawal" (Serial 2660).

CHAPTER V

DOMINION PAPERBOARD LIMITED AGREEMENT

1. Formation of Dominion Paperboard Limited

In the negotiations leading up to the organization of Dominion Paperboard Limited the advice of legal counsel was sought by the intended parties in the drafting of the agreement and in the discussions which were carried on among the manufacturers, particularly with Gair and Hinde & Dauch who did not become shareholders of D. P. L. Among the exhibits in the inquiry are copies of various letters to and from counsel in regard to the agreement, and further correspondence of this kind was introduced during the proceedings before the Commission. No objection to the inclusion of this correspondence in the evidence was made at the hearing by counsel for any of the parties. While it is unusual to have in the record comprehensive correspondence of this nature, in the particular circumstances of this case it does throw a good deal of light upon the manner in which the agreement was negotiated.

In the negotiations which were carried to conclusion in 1944, the attitude of Hinde & Dauch remained consistently opposed to a formal price-fixing agreement. On February 25, 1944, L. F. Winchell, Vice-President and General Manager of Hinde & Dauch, now deceased, wrote, as follows, to W. H. O'Reilly:

"I did take up with Charles Frohman, both direct and through Mr. Sidney Frohman, your suggestion that he draw up a rough outline of such kind of an agreement as would be satisfactory to him--Charles. He came back at the time with the statement that he did not think it would be a bit of use so to do, because the type of agreement that he thought should be entered into would entail only a subscription to membership in an association, the by-laws of which would be similar to those of the organizations he had previously sent--that he would favor an association without the power of life or death over its members--in other words, not a hard and fast agreement, but one that would be rather mellow.

We have our Annual Meeting on Tuesday here. Mr. Frohman always come up a day previous, and will be here on Monday. On this occasion, Charles is coming up a day ahead also, as we have some labor-union matters to go over, and the matter of Board Sales' agreement, naturally, will be reported

on officially at the Directors' Meeting, since instructions were given at the last meeting for the action we subsequently took. It occurred to me that if you wanted to have a little talk with Charles on Monday, by phone, he would be available here.

He did state at the time of our last correspondence on this contract--February 14th--that he would be talking it over further with Shaver when he was up here for the Annual Meeting."

(Serial 2191)

According to information set out in the Statement of Evidence, Sidney Frohman was President of Hinde & Dauch and Charles Frohman was a Vice-President of the parent company, Hinde & Dauch Paper Company of Sandusky, Ohio, where both resided.

Early in 1944, R. M. Fowler, then Secretary and General Counsel of the Wartime Prices and Trade Board but also engaged in private legal practice, was retained in the latter capacity to look into the arrangements among boxboard manufacturers. On March 13, 1944, R. M. Fowler wrote to W. H. O'Reilly as follows, a typewritten copy of the letter being found in the files of Bathurst:

"Re Paperboard Agreement

I am enclosing three copies of a draft of the Agreement which was discussed with you and your associates who instructed me to proceed with its preparation. I should emphasize the words 'first draft' at the top of the first page. In preparing this agreement I have drawn somewhat freely on my rather limited knowledge of this industry to set forth the type of provision that I am prepared to suggest. I would not like the particular provisions to be regarded as final nor would I like to see the discussion of this draft directed toward minor errors of fact of which there may be many examples. This draft is merely an attempt to crystallize the approach to the problem; using it as a basis, we should proceed to discuss the broad principles and after these have been settled get down to particular forms of words.

I had intended to send with this draft a legal opinion giving you my view of the applicable law. Upon consideration, however, it seems better to defer this to a later date when a more final draft is available and when the legal opinion can be directed to the specific provisions of such draft. It is sufficient for present purposes to give you my view that all price agreements in an industry are not illegal, provided the agreement is not one unreasonably to enhance prices and all agreements for the lessening of competition are not illegal, provided they are not agreements to lessen competition unduly. Nevertheless, the

decisions in the Container Materials case which emphasize the right of the public to 'free competition' place difficulties in the way of any agreement and it would be foolish to suggest that dangers do not exist if an industry such as this makes any price fixing arrangement.

In the face of these legal dangers it is quite clear that any arrangement should avoid all subterfuge and should state frankly and fully what it is the parties propose to do. One of the elements which told heavily against the defendants in the Container Materials case - particularly with the Chief Justice of Ontario - was the elaborate fiction of a sale by the manufacturing companies to Container Materials Limited; this was described by the Chief Justice as 'a design to give the arrangement the appearance of an innocence it did not possess'. In large measure the present contract forms with Board Sales Limited are similarly objectionable. I feel that we can be too clever in matters of this sort and the simple, direct approach is desirable.

One further legal point should be mentioned. In the laws affecting trade combinations it is clear that the Courts will look beyond the written documents and will piece together the real arrangement between the parties from their various actions. Hence, I feel it is essential, if there is to be a written agreement at all, that the whole arrangement should be described in such agreement and if new provisions are necessary they should be incorporated in an amending agreement. In a word, it should be either one thing or the other, not half in writing and half existing by practice or informal understanding.

Lastly, on the legal phases of the matter I think that, if the companies are to go ahead with this arrangement, they should frankly recognize the possibility that they may have to defend it in Court; they should govern their actions with a view to this possibility; and they should be prepared in a Court action to take a positive line in the defence which would be able to justify what they had done.

This draft agreement is unusual in its informality, set-up and lack of legal phraseology. In some respects it is probably loosely worded and, therefore, would probably not be readily enforceable between the parties. I have deliberately made a radical departure from existing forms because I feel there is advantage in getting away from the type of trade agreement that has already been before the Courts. However, we must all recognize that this departure from familiar forms is likely in itself to provoke some doubt and hesitation among the manufacturers and their advisers.

The draft is designed as one agreement for all twelve manufacturers rather than twelve separate agreements signed by each individual manufacturer. If it were necessary, the form could easily be redrafted in the individual form of agreement but for the reasons already given in favour of avoiding a fictitious arrangement I feel that it is better to have what is in essence a single agreement between twelve companies incorporated in one document.

The first two sections of the agreement may at first sight appear to 'protest too much'. This should be carefully considered but my present view is that there is merit in making a frank statement of the difficulties facing the industry in the absence of an agreement and the necessities which impelled the making of the agreement. The economics which I have included in the second section may or may not be strictly accurate and this section should be given particular study.

In Section 3 I provide for the incorporation of a new company. It is probable that the existing company, Board Sales Limited, could be used but there may be some advantage in having a complete break with the past. On the other hand, the use of an independent company might conceivably be eliminated entirely and the agreement could provide for a committee to fix prices on which each manufacturer would have a representative. However, I can see many procedural difficulties, particularly in the matter of the contribution of expenses for statistical and management matters.

In Section 4 the products covered by the agreement are described and these are factual matters on which your careful checking is essential.

The most important section is Section 5 dealing with prices. I have assumed that the industry requires and desires a rigid definite price structure. If, by any chance, the needs of the situation would be met by allowing a price 'tolerance' above and below a named price, the legal position would be greatly strengthened. It would then be possible to show that there was still price competition within this range and that only 'cut-throat' prices were eliminated by the agreement. The subsection dealing with penalties has caused me considerable worry and difficulty in drafting; I would much prefer to have it eliminated, although its value was emphasized in our discussion in Montreal. The subsection dealing with pricing principles is somewhat vague and unsatisfactory and if it is possible to make this more definite it would be an improvement; I feel that some statement of pricing principles is highly desirable.

I need not discuss in detail the other sections of the draft

although all should be given most careful consideration.

I shall be in Toronto on Wednesday and Thursday and it may be possible for you to spend some time in preliminary discussion with me while I am there. If your appointments allow this, will you give my office a call - Elgin 4127 - on Wednesday morning. I have a Court motion to take at eleven so you should call if possible around 9.30 or ten. In our meeting at Montreal it was suggested that the draft I prepared should go to the individual manufacturers and their legal advisers. I would prefer that this first draft should be discussed with a small sub-committee and the committee's suggestions incorporated in a second draft before this transmission to the full industry takes place. I would also like to have an opportunity of discussing the draft with members of my firm before it is circulated."

(Serials 14598-600)

In the Bathurst files were also documents headed FIRST DRAFT - March 13, 1944 and SECOND DRAFT - March 27, 1944, in the form of an agreement between the manufacturers then members of Board Sales, including Gair and Hinde & Dauch. Other documents in evidence show that the form of agreement was under active consideration and that revisions were being made as the result of discussions among company representatives.

The approach of Bathurst to a new agreement is indicated in a memorandum of April 4, 1944, bearing the initials R L W and also the notation G T C R. L. Weldon was President of Bathurst and G. T. Cockerill was Sales Manager of Bathurst at this time. The first part of the memorandum consisting of two numbered paragraphs was typewritten and the latter part was handwritten with certain portions underlined. The memorandum appears as follows:

"G T C

M E M O R A N D U M

In requesting opinion from our Attorneys with regard to new Board Group Agreement we intend to pass this to our Attorney advising him -

1. That we are desirous of entering into such an agreement as this with the other members of the Industry.
2. It is our desire to have him examine this agreement with regard to -
 - (a) Offering any further suggestions which might improve the agreement.

- (b) Give us a legal opinion as to the degree of business risk involved in signing this agreement.

all with the idea tho' that we want to do this not that we want him to merely tear it to pieces.

RLW -
Apr. 4/44."

"G T C

This is a note for your policy re 'special meeting - special committee tomorrow'. You know how to handle same.

W."

(Serial 14616)

Reference to a meeting on April 5, are contained in a handwritten memorandum from the Bathurst files addressed R L W and signed G T C, Apr. 6th, which is set out below. In the memorandum have been inserted in parentheses the company affiliations of the persons referred to therein.

"Paperboard Ltd.

Attached is final draft from Fowler also the legal opinion of McCarthy & McCarthy.

Winchell [HINDE & DAUCH])	<u>Also Present</u>
)	
Brown [GAIR])	Whitten [GAIR]
)	
Whitehead [CONSOLIDATED])	Daubney [GAIR]
)	
Price [PRICE BROTHERS])	Met April 5th Jeckel [ex
)	-BOARD SALES]
Scowen [BROMPTON])	4.30 P. M.
)	5.30 P. M.
O'Reilly)	
)	
G. T. C. [BATHURST])	
)	
Matheson [FRASER])	

Winchell and Brown are submitting draft to U. S. Companies.

Brown doing all he can to recommend acceptance.

Price - Scowen - Whitehead all think it very good and anticipate signing it - Price & Scowen

wish first to discuss with their lawyers.
Whitehead has already discussed with Belnap.

Matheson likes it - will discuss it with A. Crabtree
[FRASER].

Winchell hopes to have reaction of H. & D. U. S. in
O'Reilly's hands by Apl. 16.

G. Brown hopes to have reaction of Gair U.S. in
O'Reilly's hands by Apl 14.

One pertinent remark of Winchell's was:-

"We all have got to be disposed to hang together!"

(Serial 14631)

On April 12, 1944, the President of Gair wrote to the President of the parent company in the United States in regard to the proposed agreement. Two persons referred to in this letter may be further identified. George Willoughby is G. M. Willoughby, Secretary of Gair and a member of a Toronto legal firm and "Parker" is Parker Newhall, a member of a legal firm in the United States. The letter reads as follows:

"I am attaching a copy of the proposed arrangement between the Paperboard Manufacturers here as prepared by R. M. Fowler of McCarthy and McCarthy, together with a copy of their letter dealing with the legal phases of the agreement. I gave a copy to George Willoughby and he is writing Parker today giving him his legal opinion of the arrangement so that Parker will have this information when you discuss with him the subject matter of the attached.

The items circled on pages four and eight were agreed to by the Committee and following the meeting, in talking with several of the members, I think I am quite certain in stating that section five dealing with penalties can be eliminated from the agreement in order to overcome the objection which McCarthy and McCarthy had regarding this clause mentioned in the last paragraph of their letter on page two and in the first paragraph on page three.

Of the six members of the Committee, four voted in favor of the attached arrangement with the possibility of only minor changes. Hinde & Dauch and ourselves stated it was necessary to submit it to our principals and in our case, I stated I would discuss it with you when I was down for the meeting on the 25th but I was requested to get some indication of interest or otherwise prior to my leaving for Winnipeg on Saturday.

Unfortunately this has been delayed due to my having picked up a cold in Montreal but in any event George is only getting his opinion away today and as I will phone you on Friday prior to leaving for my Western trip, perhaps you will have time to give it some thought and let me have your tentative reaction to the attached. With kind regards.

P. S. It really gets down to management's willingness to take a business risk."

(Serial 2599)

A legal opinion of McCarthy and McCarthy dated April 4, 1944 was tendered by R. M. Fowler when he appeared before the Commission. This is in the form of a letter to W. H. O'Reilly, as follows:

"re: Paperboard Arrangement

We have drafted for you a proposed arrangement between twelve paperboard manufacturers and now wish to give you our opinion on the legal questions involved in such an arrangement.

This arrangement must obviously be based on the existing statute law and the cases decided under those statutes. While this is an obvious point, it is worth emphasizing because it seems probable that, as the end of the war approaches, greater attention will be given to the legal position of trade associations and the validity of their arrangements, not only in this country but in Great Britain and in the United States. No one can predict the direction any such changes may take and it is therefore important, if any such arrangement as this is made, that it should be held subject to review in the light of changing legal provisions.

It may be of some value to review briefly certain of the legal principles that have emerged on the subject of trade arrangements. It seems to be clear that trade associations have their proper place under existing laws and arrangements between different units in an industry are not all illegal. The provisions in Section 498 of the Criminal Code prohibit arrangements to restrain or injure trade or commerce, to unduly limit the facilities for manufacturing or supplying any commodity, to unduly prevent, limit or lessen the production of any commodity, to unreasonably enhance the prices thereof or to unduly prevent or lessen competition in the manufacture or sale of a commodity. The test as to what is 'undue' or 'unreasonable' is, under the decided cases, the interest of the public. Under the Combines Investigation Act an arrangement which fixes a common price, or which prevents or lessens

competition, is illegal if it operates or is likely to operate to the detriment or against the interest of the public; again, the test of public injury is the criterion of illegality.

It is clear from the decided cases that the formal expression of the arrangement will not be taken as the whole story; the Courts will look at the actions taken by the parties and the unwritten arrangements as spelled out in these actions to arrive at the real understanding. We feel it is important that the written arrangements should be frank and complete and the parties should be prepared to keep their actions within the scope of the written arrangement. In a number of trade arrangements an attempt has been made to set up a false front and form an arrangement which never operated and never was intended to operate according to its terms. While such an arrangement as this is is not necessarily conclusive of the case, we feel it is unwise to attempt to give the arrangement a form and appearance which it does not rightfully possess. The document which we have drafted for you attempts to follow out this principle and we have sought to obtain from you a complete statement of the arrangement and to translate it into the written document.

The form which we have adopted for the arrangement is somewhat unusual in that it attempts to set forth some of the economic and practical reasons which led to the formation of the arrangement between the parties. The document does not, therefore, follow the usual wording of an ordinary contract or agreement. It amounts to a joint declaration by the twelve companies of what they intend to do and is designed rather to place limits around the scope of their activity than to establish rights between the parties.

The several clauses of this arrangement have been discussed with you and your associates and it is not necessary to go into a detailed discussion of the wording. The kernel of the arrangement appears in Section 5 which deals with 'prices'. There is a specific agreement for price-fixing between the parties and this will necessarily cause some question. We do not believe that the mere agreement to fix prices makes the arrangement illegal. If the prices fixed were 'unreasonably enhanced' there would, of course, be illegality. Moreover, the mere existence of a price-fixing agreement is apt to invite enquiry and therefore the parties must be prepared to justify the necessity for such an arrangement and the reasonableness of what they have done under it. However, we understand that it is necessary, for the reasons stated in the second paragraph of the draft, to have a price-fixing arrangement and unless this is included any arrangement is valueless.

Subsection (g) of Section 5 allows penalties to be imposed

on manufacturers for breaches of the arrangement. From a strictly legal point of view, we would have preferred that this penalty section be omitted. This is one of the features of trade arrangements which the Courts have tended to seize upon and to criticise. We do not feel that a clause such as we have drafted will necessarily conclude the matter but we feel we must point out that it tends to weaken the legal position. You have, however, stated the great practical value of such a clause and we have included restrictions on the amounts of the penalties that may be imposed, and these tend to minimize the undesirable features which have been noted in several of the cases.

We feel that the provisions in Clauses 5(a) (allowing the establishment of prices on new or improved products), Clause 6 (dealing with statistics), Clause 8 (dealing with preservation of the right to compete), and Clause 9 (allowing for the addition of new parties to the arrangement) are clauses of a type which have not usually appeared in arrangements of this sort and we feel that they all tend to establish the reasonableness of the arrangement and to strengthen its legal position.

We doubt if any lawyer could tell you positively that an arrangement such as this is beyond legal question. Any arrangement between a substantial group of manufacturers is likely to cause enquiry and may lead to Court action. We can only say that we have attempted to draft an arrangement which we believe is reasonable and necessary both from the standpoint of the manufacturers and from the standpoint of the consumers of paperboard and paperboard products. We have attempted to make this arrangement reasonable in all its terms, but we must emphasize that that reasonableness will depend on the way in which the arrangement is carried out and, in the ultimate test, would require a willingness on the part of all parties to the arrangement to undertake affirmatively to justify the arrangement and its reasonableness."

(Exhibit H-5)

During the appearance of R. L. Weldon before the Commission, a legal opinion secured by Bathurst from Lionel Forsyth, K. C., was filed as an exhibit. This opinion was given in reply to the following letter from Bathurst written to Mr. Forsyth on April 12, 1944:

"Further to our telephone conversation of today I am enclosing Fowler's draft 'arrangement' and McCarthy & McCarthy's 'opinion'.

We would be very much obliged if you would return these to us with your comments as soon as you are able to do so as

we expect to have further meetings on this matter next week. We are desirous of signing some such 'arrangement', and this draft appears to us to be quite a satisfactory approach. It is set up in a manner which we feel covers the requirements of the case very well. We would naturally be glad to know if you can suggest anything which you feel would be an improvement.

I think Mr. Weldon told you that we are prepared to accept what might be called a reasonable business risk and perhaps you would, in your reply, let us know the extent to which you think we would be taking a risk of possible court action by signing the agreement as it stands."

(Serial 14634)

Mr. Forsyth's reply, dated April 14, 1944, was as follows:

"Upon my arrival in Halifax I received your letter of the 12th with the enclosed copy of the draft Agreement and the opinion of Messrs. McCarthy & McCarthy.

I think that possibly you will remember, and I am quite sure that Mr. O'Reilly will certainly recall, that the general scheme of the proposed Agreement conforms in its general outline to the proposal which I myself made at a meeting held in Montreal some time ago. Unfortunately, I do not have with me my own file on this subject so that I cannot be quite as specific as I should like to be, but speaking again in a very general way I have always been of the opinion that the only sensible and practical approach to the problem of trade arrangements is complete and utter frankness as to the intent and purpose of the parties. I must say therefore that I approve the form of the Agreement and I have no suggestions for its improvement. I concur in the opinion of Counsel agreeing that it is impossible to give an unqualified assurance that the Agreement as framed, if carried out, will not expose the parties to it to prosecution and possible conviction. On the other hand, I do not believe that the risk of prosecution and conviction is greater than what I think you mean by 'a reasonable business risk', and the benefits and advantages which the manufacturers, their customers and their employees should enjoy from the operation of the Agreement, are in my view such as to justify your Company in becoming a party to the arrangement.

Of course, as the opinion states, it is essential that the Agreement contain the whole arrangement and that no understandings other than those set out in the Agreement exist. I, too, feel that the penalty clause might form a starting point for criticism but I cannot believe that if the arrangement set out in

the Agreement is in other respects lawful - as I believe and hope it is - that the mere existence of sanctions in respect to breaches of the terms of the Agreement can make the arrangement an unlawful one.

I do not feel there is anything more that I can usefully say on the subject. I shall probably be in Nova Scotia for another week and you will be able to reach me through the Norfolk Hotel in New Glasgow."

(Exhibit H-10)

The positions of Gair and Hinde & Dauch with respect to the proposed agreement were discussed at meetings in Montreal on May 19 and 20, 1944. A report of the meeting on the second day is contained in a memorandum made by a representative of Gair at the meeting and, although unsigned, was obviously prepared by G. M. Willoughby. The memorandum, copies of which were found in the files of D. P. L. and Gair, reads as follows:

"RE: MONTREAL CONFERENCE CONFIDENTIAL

Parker Newhall and I attended on Saturday, the 20th inst. at Montreal upon the conference to consider the draft Industry Agreement prepared by Mr. Robert Fowler. Mr. W. H. O'Reilly presided, and Mr. Fowler was present to expound his draft Agreement. Brompton Pulp and Paper Company Limited, and I think Consolidated Paper Company Limited were represented by W. F. Macklaier of MacDougall, Macfarlane, Scott and Hugessen, Hinde and Dauch Paper Company of Canada Limited by Mr. Charles Frohman and George Shaver, and Gair Company Canada Limited by Parker Newhall and the writer.

The draft Industry Agreement was discussed from various angles, and Mr. Fowler's submission was that an Agreement fixing prices was not per se illegal. This is theoretically correct, but is based upon the premise that neither the provisions of the Code or of The Combines Investigation Act are contravened. It is more or less begging the question, and you will appreciate that the carrying out of the agreement may in fact constitute a contravention of either or both of these enactments. Mr. Fowler admitted that the agreement did not provide immunity from either investigation or prosecution, and from there proceeded to state that in such contingency the industry members would be obligated to assume and satisfy the burden of disproving [sic] that the agreement and the activities thereunder did not contravene either of the aforesaid enactments.

It was the considered view of the representatives of Hinde and Dauch Limited, and of your Company that when all or practically all of the members of an industry entered into an agreement of the nature and kind herein, that a Court of competent jurisdiction would be entitled to infer as a fact, relying upon the past decided cases, that the lessening or prevention agreed upon was undue within the meaning of Section 498 of The Criminal Code. Accordingly, it was considered that the proposed Industry Agreement would be an illegal agreement, and furthermore that the burden of proving that the agreement was not illegal would be cast upon the industry members which might be very difficult to satisfy.

Mr. Charles Frohman felt that an agreement was unnecessary in the present circumstances while Wartime Prices and Trade Board was functioning, and furthermore that it was improper at any time to execute such proposed Industry Agreement. After an extended discussion, he indicated that Hinde and Dauch would be prepared to proceed upon any one of the following three alternatives.

- (a) A purely statistical organization which might include past transactions and current forms of statistical information.
- (b) If ten (10) companies go ahead and execute the proposed Industry Agreement that Hinde and Dauch Company of Canada Limited would enter the statistical phase of such agreement only on the basis of Mr. Winchell's letter dated May 1, 1944.
- (c) If the proposed Agreement of the ten (10) companies is tested in the Court, and is found free of guilt by declaratory judgment, Hinde and Dauch Company of Canada Limited would then be prepared to execute such Agreement.

Parker stated that subject to discussion with you and George Dyke, that the attitude of Gair Company Canada Limited would be substantially the same as that of Hinde and Dauch Company Limited. In connection with the statistical organization proposed by Mr. Frohman, he (Parker) suggested that prices might be considered at such time as might be deemed necessary, and that at such specific time such appropriate steps should be taken so that the industry would be in a position to justify fully what had been agreed upon. It occurs to me that a considerable part of Mr. Frohman's objection to the Agreement arises from the Agreement to do what is proposed when no reason or justification for so doing presently exists. You will appreciate this latter is only my own inference.

I am enclosing to you a copy of Mr. Winchell's

letter dated May 1, 1944."

(Serials 2196-98; 2674-75)

The representative of Hinde & Dauch, Charles E. Frohman, prepared a report of the meetings on both days, copies of which were found in the files of D. P. L., Gair and Bathurst. This memorandum, dated May 22, 1944 is, in substantial part, as follows:

"Met Mr. Shaver Friday morning, May 19, 1944, at the Windsor Hotel, Montreal. Telephone call waiting from Mr. O'Reilly.

Visited H & D plant in morning and by arrangement at O'Reilly's invitation, lunched at Cafe Martin in private room with:

C. R. Whitehead	Consolidated Paper
Phil Scowen	Brompton
R. L. Weldon	Bathurst
'Tiny' Cockerill	Bathurst
Geo. Willoughby	Gair Atty
W. H. O'Reilly	
Geo. Shaver	

Upon suggestion of several of the principals, there was discussion after luncheon 'because they would not be present at Saturday's meeting.' The discussion ended about 5 o'clock, and adjourned to reconvene at the same place at 7 for dinner as Mr. Whitehead's guests.

During the course of the afternoon, discussion was opened by Mr. Whitehead, followed by Mr. Scowen and Mr. Weldon; all pointed to the desirability of an agreement, and, to a degree, the necessity of the agreement in its present terms as to substance. Mr. Whitehead paid tribute to Mr. Sidney Frohman for his efforts in association work in the earliest days.

Mr. Willoughby did not stay after the lunch or after dinner, being disinclined to talk in the absence of Mr. Parker Newhall. The onus of the reply was therefore on my shoulders and all comment on both days seemed to be directed at me, especially by counsel on the second day.

My reply to the principals was that with or without any agreement, H & D would be inclined to a cooperative attitude toward all competition, on the theory that an intelligent industry is necessary for the welfare of any one as well as the public. We recognized that a difference existed between U. S. and Canada in laws, and generally, in attitude of government and caliber of personnel. However, years ago we relied upon advice of counsel with respect to the Shipping Containers

contract, and that advice paralleled the comments of Canadian solicitors with respect to the present proposal. We were therefore of the opinion that it should be discounted greatly.

The last word on the law is the Shipping Containers case, and its conclusion is that an agreement making possible the lessening of competition is ipso facto, without action under it, in contravention of law.

. . .

I expressed the thought that everything that the group desired could be accomplished by a statistical association, that if it was desirable or necessary to fix prices, the parties had the opportunity to get together, and that the principal thing was the opportunity for meeting, and the presentation of complete statistics for the consideration of intelligent operators.

Mr. Whitehead disagreed with my position on the theory that if the government found all prices alike, it would have a case against the group without the advantage of the economic exposition set out in the agreement.

Mr. Scowen spoke along this line also, and gave me the impression that it was 'this type of agreement or nothing.' My answer to Mr. Scowen was that H & D would have to be absent unless the others found some manner of altering their ideas; that we were not inclined to subject any of our officers or directors to the humiliation of a public indictment whether or not the threat of jail or merely a fine became a real one.

At 11, after the same ground had been crossed and recrossed many times during the day, we adjourned to meet the next morning at 10.

Convened at the Windsor Hotel, 10 a.m. Saturday May 20, 1944. Although it was understood that the solicitors for many of the principals were to be present, the following were in attendance:

Parker Newhall	The Gair Co.
Geo. Willoughby	"
W. F. Macklaier	Brompton
Fowler	(drew the agreement)
W. H. O'Reilly	
Geo. Shaver	
Self	
(Mr. R. L. Weldon during luncheon)	

Because Mr. Newhall was new to the unscheduled discussion

which had taken place on Friday, the propositions were restated. Again the same emphasis on the difference in quality of personnel.

Mr. Newhall indicated his disapproval of the proposed type of agreement, and commented upon several of its propositions, joined by Mr. Willoughby. He indicated his approval of the position I had taken and views I had 'probably expressed.'

Because an end must come to all good things, and because the repetition was becoming somewhat monotonous, I stated the following proposition which I hope Mr. Macklaier will convey to his principal, and to Mr. Whitehead, to whom I understood he would also report, directly or indirectly.

. . .

I outlined again the statistical association, which I said we would join immediately. I also pointed out that if, as and when required after wartime controls, the principals discovered from statistics that prices needed fixing, and we were advised that such action at that time and in the manner proposed, was lawful in the opinion of our solicitors, we would be a party to that action in meeting. I pointed out that nothing they proposed was new to us in U. S.; that of course we would preface any agreement with all the reasons for economic advantages that were appropriate, but that such an agreement would not include as its objective and purpose, the doing of any unlawful (in our opinion) act, or any price-fixing, etc.

Here is the part which I was not able to answer Mr. Whitehead, because it should come from his solicitor, involving, as it does, legal procedure: Under either type of agreement, acts done will not be justified as legal no matter whether the agreement is legal or not. In a criminal case, the burden of proof of illegality is always upon the government to prove 'beyond a reasonable doubt' that the facts warrant conviction. There is another important burden -- the burden of going forward with proof which may shift in the course of trial. Now, if we have an agreement like that proposed, all that would be necessary would be for the Crown to show the illegal combination to monopolize, and the burden of going forward is immediately that of defense. If we have an agreement under which we associate which has no question of illegality, then it becomes the duty of the Crown to show that by actions, the parties have breached the law. It will always be highly desirable that all action in this regard be recorded, and that then becomes the best evidence. Presumably, in fixing prices legally the parties would have before them all the statistics, and would recite in their minutes the reasons justifying their stand, both from statistics and from public and economic point of view. Thus, when the Crown introduces

evidence of price fixing, it automatically introduces evidence of the manner in which prices were determined, and this, together with the original inoffensive agreement, becomes the first record of the case. There may be some question which I will have to leave to Canadian counsel, whether under such circumstances the oral evidence of individuals would be admissible to vary the terms of the written record. At this point of trial the sufficiency of evidence for the Crown, if it rested, could be tested by motion or demurrer, before the defense would be required to assume the burden of going forward with proof.

Thus, it is very evident to me that we have very great tactical advantage which Canadian counsel have apparently overlooked. This is merely a refusal to place a loaded gun in the government's hands.

My conclusion is that the Canadian principals have been thinking of this with a wrong premise for a start. Instead of thinking of a means to accomplish an end, they have been thinking only of the end. Their proposed agreement expresses a Shangri-la without considering the hazardous journey.

Penalties and all other terms of which there is a legal doubt must be expunged. The statistics arranged for should be solely on the basis of past transactions and unidentified as to customers. I would recommend that summaries from time to time be made available to the public prints or business magazines.

There will be a time, until the abandonment of the war controls, when nothing that could be questioned will be needed to be done. When the necessity for action arises, its procedure can then be shaped in the light of developments.

As a summary of H & D's position (concurred in by Gair) the following alternatives were stated, together with the statement that in its present form, H & D will not be a party:

1. H & D will immediately join a purely statistical organization which might include past price transactions and current forms of statistical information.
2. If ten companies go ahead with the proposed draft, H & D would enter the statistical phase only. This would be on the basis of the letter of May 1, 1944.
3. If the proposed agreement of the ten is tested in the courts and found free of guilt, H & D would be prepared then to subscribe.

(I might add that this court case may fail of its desired

pronouncement because of the fact that the absence of Gair and H & D will not give a true picture of the volume of business to be included)"

(Serials 2200-04; 14654-58
and 2622-26)

A statement of the position of Hinde & Dauch, along the same lines, was made in a letter of May 24, 1944 from Charles E. Frohman, to W. H. O'Reilly. This letter, set out below, was written on the letterhead of the Hinde & Dauch Paper Co., Sandusky, Ohio, and signed Charles E. Frohman, Vice President:

"The following alternatives were stated at the meeting of the lawyers in the Windsor Hotel at Montreal on Saturday as being a summary of the position of Hinde & Dauch so far as I see it:

1. H & D will immediately join a purely statistical organization which might include past price transactions and current forms of statistical information.
2. If ten companies go ahead with the proposed draft, H & D would enter the statistical phase only. This would be on the basis of the letter of May 1, 1944.
3. If the proposed agreement of the ten is tested in the courts and found free of guilt, H & D would be prepared then to subscribe.

I think I should call to your attention the possibility that alternative No. 3 might not provide a proper court test because if the tonnage provided by Gair and H & D was not included in the agreement, the court might not render its opinion on the proper basis which would provide our going ahead. It might be possible, if Canadian counsel agreed to put the specific question to the Court, that the additional tonnage was contemplated so as to have it included in the decision.

Thank you very much for the arrangements which made the Montreal visit such a pleasant one. I enjoyed meeting all of the gentlemen concerned."

(Serial 2205)

The situation arising out of the attitudes of Hinde & Dauch and Gair toward the proposed agreement was the subject of three letters written by R. M. Fowler to R. L. Weldon, Bathurst, on May 22, 1944. These letters are set out in the Statement of Evidence as follows:

"Since our meetings on Friday and Saturday I have been turning over in my mind the possible lines of development and some of the legal implications involved in these various developments. In considering future action by the paperboard group my first concern must be the legal problems involved and you must take any incidental references I make to policy or business decisions as tentative only. I have not sufficient detailed knowledge of the personalities involved or of the overall business considerations to form a firm and final judgment.

The agreement which I drafted was designed to accomplish the purposes of the group within the law and, while no one can give a final guarantee on these matters, I believe it achieves this purpose and am supported in that belief by other Canadian lawyers. Contrary to the suggestion which was made to me on Saturday, I have no 'pride of authorship' in this agreement and am quite prepared to see it amended in any desirable way. Nor, having drafted it and presented it to you, do I feel called upon to fight for the agreement's acceptance.

It was apparent that H. & D. & Gair were not presently willing to proceed with this agreement although I believe the door is still open with them for further discussions. With those two large units outside the main agreement it is a question for the other ten companies to decide what they will do. It occurs to me that there are several courses open to the ten Canadian companies. At least two of these possible courses would involve what I would term 'weak compromises' in which there might be considerable legal danger which I should point out.

The first 'weak compromise' might take the form of an agreement to cover only the statistical service with the intention (however much it is denied) of fixing prices at group meetings. This course would certainly have all the dangers of the present agreement; it would be a statistical arrangement plus a price fixing arrangement. But it would be open to special suspicion if one part of the arrangement were written and the other were oral. The statistical arrangement would be made to appear as a 'front' only. In addition, the methods of price fixing would be largely uncontrolled and would be likely to produce on the one hand unjustifiable prices and on the other suspicion as between companies. The second possible 'weak compromise' might take the form of the ten Canadian companies adopting the present proposed agreement and extending to H. & D. & Gair a right to participate in the statistical service and informally to make price arrangements with the other members of the group. This is open to many of the same objections as the other. H. & D. & Gair would certainly be drawn into the whole arrangement and as such their actions would be binding on the members of the group (under the ordinary laws of trade combination) but

their actions would not be fully disclosed to the group or subject to its scrutiny. I feel that these conditions should be before you when considering your future course of action."

(Serials 14648-49)

"This is the second letter of three that I am writing today for reasons we have discussed on the telephone. My first letter mentions two possible 'weak compromises' which might emerge from the discussions last week and certain legal objections to these two possibilities. These views raise immediately the question of tactics and I hesitate to say very much on a subject which is primarily a business decision for the ten Canadian companies. You will see from the first letter that I do not like either the idea of an agreement that is partly written and partly oral, or an arrangement with the two American companies which would allow them to be in the group for certain purposes and in a special relationship for other purposes.

It seems to me that it is worth while for the ten Canadian companies to consider stating to H. & D. & Gair either that their absence makes the whole arrangement unworkable and that the association is breaking up as a result of their unwillingness to participate (the onus of the dissolution thus being placed on these two) or that the ten other members of the group will continue along the lines proposed but that they do not propose to extend the statistical service to H. & D. & Gair unless they are full participating members. (In other words, they cannot have the statistical service without accepting the responsibility and risk of the whole arrangement.)

You and your associates are in a much better position to judge the wisdom of these suggestions. Perhaps my judgment is somewhat coloured by the fact that all Canadian lawyers have advised in favour of the proposed arrangement and the objections are coming from American lawyers, one of whom is quite willing to admit that his views are affected by American experience. I have a feeling that the two American companies would like to get themselves into a special position if they can do so but my hunch is (and it is only a hunch) that they would not risk either dissolution of the group or exclusion from it if no other choice were offered to them."

(Serials 14650-51, marked
Personal)

"This is the third of three letters and deals with a conversation I had on the train between Montreal and Port Hope with George Shaver who acts for H. & D. & Gair in Canada.

I told him that it seemed to me an extraordinary thing

that the Canadian legal advisers of ten companies should support the proposed agreement only to have their decision overborne by the opinion of an Ohio lawyer who was no longer in legal practice, and on a subject of Canadian law. . . .

I told Mr. Shaver that I had no personal interest in the matter except that I had been asked to draw a workable agreement and had done my best to do so. I said, moreover, that in recent months I had come to realize the importance of the pulp and paper industry and some of its probable post-war difficulties. I said I thought it would be a pity at this critical time if the co-operation between this group were to be destroyed. Shaver agreed with this and said he thought it should and would continue. I asked him if he thought that, after the discussions on Friday and Saturday, the door was still open and he said he believed it was. As I left him at Port Hope he said he hoped the whole matter would straighten itself out with the group remaining together.

None of these opinions were expressed to me as confidential but from their nature I would not want them to be generally circulated. You may use them, however, at your discretion."

(Serials 14652-3, marked
Personal Confidential)

The attitude of Hinde & Dauch toward the proposed agreement was also the subject of a letter of June 19, 1944, from P. H. Scowen, General Manager of Brompton, to W. H. O'Reilly, which reads as follows:

"Thank you for the different memorandums which arrived here on Tuesday last. I have reviewed them again, and I must say that I am not much clearer in mind than previously. There are, however, two things which chiefly disturb me, and on which points some clarification from Frohman and Newhall might be of value.

First is that Frohman repeatedly states and Willoughby and presumably Newhall concur, that any action to maintain or establish prices is not necessary so long as controls are affected by the Wartime Prices and Trade Board.

At the meeting which Frohman attended in Montreal, I endeavoured to point out to him that Wartime Prices Board existed solely to prevent undue increases in prices, and that their controls offered no assurance whatsoever that prices might not and could not be drastically reduced in the event of an intense, but possibly shortlived recession in trade. Perhaps I completely misunderstood the Americans' view in this respect, but unless they have some other point I believe my

interpretation to be correct and applicable. I think, among the Canadians we are agreed that considerable danger to the maintenance of satisfactory prices would develop if, by chance, at the end of the war we experience a temporary but severe setback.

The other point is that the Americans appear so anxious to leave this matter of price until a later date. It seems to me that, if we are jointly agreed that the principles and premises which Fowler sets out in his memorandum are sound and wise for both the manufacturer and the consumer, that a definite obligation devolves on us to immediately effect such arrangements as may reasonably be expected to accomplish this end. I think it must necessarily follow that such action should be taken immediately to eliminate any possibility of unstable conditions in the immediate post war period, and to enable this division of the industry to contribute in the maximum degree to the post war problems.

I think another question should be put to Frohman, and that is simply whether he feels that price fixing in the literal sense of the term is necessary at a later date or not. I am not clear in my own mind that this specific question has been put to him or that an answer has been received. I know that in principle he is in favour of co-operation, but I do not know whether he believes that price fixing as such to be necessary or not. If he does believe it to be necessary, I think we should place the onus on him to work out a scheme to accomplish this end.

I am still inclined to believe that we should not cease our endeavours to find some mutual ground, and I still favour having Whitehead meet Sidney Frohman in New York. Failing any possibility of bringing Frohman into line, I would favour the remaining ten companies proceeding with Fowler's agreement subject to such minor amendments as may be decided upon, and of excluding Gair and Hinde and Dauch entirely. I suggest excluding Hinde and Dauch and Gair for two reasons--one, I doubt if they could agree to any effective co-operation in view of Frohman's stand, and secondly, I would not consider it fair that the other ten companies should assume a large measure of responsibility, and possible liability, to obtain certain benefits, and at the same time place Hinde and Dauch and Gair in a position to obtain the benefits without assuming the liabilities."

(Serials 2206-07)

A copy of this letter was found in the files of Gair and also a copy of the following letter from Charles E. Frohman to Parker Newhall, dated June 26, 1944, which indicates that Hinde &

Dauch received a copy of Mr. Scowen's letter:

"Today I received the following memorandum from Mr. Winchell of Toronto:

The copy of letter attached came to me from P. H. Scowen, General Manager of the Brompton Pulp and Paper Company, Limited, who phoned me a couple of days ago to tell me he was writing such a letter and would send me a copy.

He wanted to know definitely whether or not you believed that price fixing, as such, was necessary or not. If you did believe it--in view of the fact that we were the ones who were cramping the other fellows' style--the onus of effecting a workable plan should devolve upon us.

I assume that O'Reilly will be asking us for a statement in connection with this letter, so if you will let me have one, at your convenience, will see that it reaches him.

And attached is a copy of the letter from P. H. Scowen to W. H. O'Reilly.

Apparently you and I (with emphasis on me) are being put on the spot in this matter, but I don't want to reply to this letter until I have cleared with you so that I know that our thoughts are the same as they have been.

Would you mind showing this to Mr. Dyke and then letting me have your reactions; and if you care to indicate a course that you would be inclined to take, I would appreciate that as well."

(Serial 2646)

The following typewritten copy of a reply, dated July 1, 1944, from Mr. Newhall to Mr. Frohman was also found in the files of Gair:

"Yesterday I discussed with Mr. Dyke [Robert Gair Company] and Mr. George Brown [Gair] your letter to me of June 26th with its enclosed copy of Mr. Scowen's letter of June 19th to Mr. O'Reilly.

It was our reaction that Mr. Scowen's letter did not really present anything new, and the position of the Gair Company is the same as when I last talked to you, namely, that our Canadian subsidiary would be glad to enter into an agreement

with the eleven other Canadian Companies substantially in the form prepared by Mr. Fowler and discussed in Montreal, except for the price fixing provisions which we feel should be eliminated. This, of course, would not prevent the other Companies from proceeding with a price fixing agreement of their own, if they desired to do so."

(Serial 2647)

In the face of the attitude of Hinde & Dauch and Gair, steps were taken to conclude an agreement along the proposed lines among the other ten companies making up the membership of Board Sales. The progress made in completing the agreement was described in a letter of July 19, 1944 to R. M. Fowler, bearing the initials "GTC" which are those of G. T. Cockerill, of Bathurst, a copy of which was found in that company's files. The letter contained the following:

"C. R. Whitehead has asked me to bring you up to date with our progress with regard to Paperboard Limited.

The arrangement has been signed by Consolidated, Bathurst, Fraser, Howard Smith, Price Brothers and is now circulating by mail between Brompton, Miller and Strathcona, all of whom have agreed to sign and mail back to C. R. Whitehead as soon as possible.

Beaver's Chicago executives are expected to sign as soon as they receive the document but the plan is to send it to them after the nine Canadian companies have signed it.

. . ."

(Serial 14671)

The letter went on to discuss some points raised by the Booth company in regard to certain provisions of the agreement. Changes were made in the wording of these provisions to the satisfaction of the Booth company and the agreement in its revised form was signed on behalf of the ten companies as of August 14, 1944.

2. Nature of the D. P. L. Agreement

In the words of the document signed on August 14, 1944, the agreement is described as an "arrangement . . . between:

BATHURST POWER & PAPER COMPANY, LIMITED
BEAVER WOOD FIBRE COMPANY, LIMITED
J. R. BOOTH LIMITED
BROMPTON PULP & PAPER COMPANY, LIMITED

FRASER COMPANIES LIMITED
THE MILLER BROTHERS COMPANY, LIMITED
PRICE BROTHERS SALES CORPORATION
HOWARD SMITH PAPER MILLS LIMITED
ST. MAURICE VALLEY PAPER COMPANY, LIMITED,
and
STRATHCONA PAPER COMPANY, LIMITED"

(Serial 2209)

On June 29, 1946, J. R. Booth Limited withdrew from the arrangement and its successor, Eddy, became a party. No other party withdrew from the arrangement and two other companies became shareholders of D. P. L.; Minas Basin on December 30, 1950 and Northeastern on July 5, 1950.

The full text of the D. P. L. agreement will be found in an appendix to this report. In his evidence in the inquiry, W. H. O'Reilly stated, that the operations of Board Sales and D. P. L. were very much the same (Evidence, p. 162). However, there were considerable differences in the form and details of the two agreements.

In form, the arrangement under Board Sales consisted of a series of individual agreements between each manufacturer and Board Sales whereby the latter was appointed the selling agent for the products covered by the agreement. The D. P. L. agreement was, on its face, a joint arrangement providing for the formation and operation of D. P. L. In the actual operations of Board Sales, of course, each manufacturer continued to conduct his own sales activities and there was no actual implementation of the agency provisions.

In the Board Sales agreement there were provisions for the imposition of penalties in the event that a member had defaulted in any obligation under the agreement. In the drafting of the D. P. L. agreement consideration was given to the inclusion of provisions respecting penalties but no such provisions were included.

Classes of Products

The D. P. L. Agreement exempts from its provisions more grades of paperboard than had the Board Sales agreement but it embraces the principal boxboard grades. Export sales are exempt under both agreements. The schedules listing the exempted classes of paperboard in the two agreements are as follows:

D. P. L.

Board Sales

- | | |
|--|---|
| 1. Paperboard in rolls for the manufacture of fibre wall-board for the producers own processing in Canada. | 1. Paper in rolls for the manufacture of fibre wallboard for the producers own consumption in Canada and for own consumption and sale in U. S. A. |
| 2. Container Board produced for and sold to manufacturers of shipping casses. * | 2. Plaster board and plaster lathpaper in jumbo rolls for sale in the U. S. A. |
| 3. Ticket Bristol. | 3. Bottle Cap Board. |
| 4. Tag Board. | 4. Ticket Bristol. |
| 5. Index Board. | 5. Tag Board. |
| 6. Bristol Board. | 6. Index Board. |
| 7. Blanks. | 7. Bristol Board. |
| 8. Playing card stock. | 8. Blanks. |
| 9. Board for Paper Milk Containers. | 9. Playing card stock. |
| 10. Panel Board for the Automobile Industry. | |
| 11. Calendar Mounts. | |
| 12. Silk Wrapper. | |

(Serial 2220)

(Serial 2090)

In both agreements there are provisions under which, in particular cases, exceptions may be made for any product covered by the arrangement.

Board of Directors

In the case of both Board Sales and D. P. L. the conduct of affairs is entrusted to a board of directors consisting of the representatives of the respective members. The D. P. L. agreement provides "The Board of Directors . . . shall be composed of one

* This class was also exempt under Board Sales in view of the operations of the Shipping Case Material Manufacturers Association.

representative of each of the manufacturers who becomes a party to this arrangement" (Serial 2211).

Determination of Prices

The Board Sales agreement provided that prices, terms and conditions of sale should be determined from time to time by the Board of Directors. The D. P. L. agreement similarly provided:

"Each manufacturer agrees to sell the products covered by this arrangement at the prices and on the terms and conditions determined from time to time by the Board of Directors
. . . "

(Serials 2211-12)

No statement is contained in the Board Sales agreement as to the principles to be followed in setting prices whereas the D. P. L. agreement contains the following provision:

"Principles Applicable to Price Determinations

The manufacturers agree that their representatives on the Board of Directors of Paperboard Limited shall establish reasonable and fair prices for the products covered by this arrangement, having regard to general economic conditions, the needs of the public, the interests of labour, the necessity of maintaining productive capacity adequate to meet present and future demands, and a reasonable profit."

(Serial 2212)

This provision is related to an earlier section of the D. P. L. agreement which describes the conditions which are considered to make such an agreement necessary. This section reads as follows:

"Necessity for this Arrangement

While it is recognized that any arrangement between a group of manufacturers comprising a substantial part of an industry is in danger of infringing, or at least of having the appearance of infringing, the provisions of Section 498 of the Criminal Code or the Combines Investigation Act, this arrangement is intended to avoid any such infringement. The situation in the paperboard industry requires some arrangement between a number of the units of the industry and probable developments during the war and post-war period make such an arrangement doubly necessary.

The demand for paperboard varies widely from year to

year in direct proportion to industry activity within Canada and the accessibility of foreign markets. If industrial activity is at a high level, the demand is large for finished products for which paperboard is the raw material. If industrial activity is low, the demand for paperboard falls. The manufacture of paperboard requires large capital investments in expensive plant and equipment and either extensive commitments for a term of years for pulpwood concessions and the development of forest facilities or a steady flow of waste materials for use in manufacture. At a time of high demand, the capacity of the Canadian industry may be taxed to the limit. At a time of low demand, there may exist considerable excess capacity. If, during a period of low demand, there is unrestricted competition in matters of price, the paperboard industry will tend to become demoralized; wage rates will tend to be reduced to undesirably low levels; and manufacturers will be forced to the verge of, if not into, bankruptcy. On the return to a period of normal or high demand after such a period of low demand, the manufacture of paperboard may be left in the hands of a few companies who have been able to survive the period of demoralization and the remaining capacity may prove inadequate to meet Canadian needs for paperboard. As the end of the present war approaches and reconversion from wartime to peacetime demands takes place, the probability of violent fluctuations in the demand for paperboard is likely to increase.

The manufacturers of paperboard who have signed this document believe that some system of voluntary price control is necessary in their own interests. But they also believe that it is necessary in the interests of the large body of workmen who depend upon the industry for their livelihood, in the interests of the consuming public which requires an assured and regular supply of paperboard for a multitude of uses, and, ultimately, in the interests of Canada, particularly during the difficult period of post-war reconstruction. Paperboard is not generally sold to the consuming public but is the raw materials for other manufacturers. These manufacturers are engaged in different types of activity and they vary in the size and nature of their demands for paperboard. The manufacturers of paperboard who have entered into this arrangement have done so with the intention of assuring to all purchasers a stabilized price for paperboard and in the belief that, if all purchasers who require paperboard for their manufacturing processes are able to obtain their raw material on equal terms, the best interests of the ultimate consumers of paperboard products will thereby be furthered."

(Serials 2209-11)

Provisions with Respect to Competition and New Parties

Specific provision is made in the D. P. L. agreement for the addition of new parties, and members undertake not to offer inducements to or to exert pressure upon other manufacturers to subscribe to the agreement and, on the other hand, not to place any obstacle in the way of any manufacturer desiring to become a party.

With respect to the production of each member, the agreement states:

"Preservation of Right to Compete

Save in respect to matters of price and the terms and conditions of sale which constitute an element in price, the manufacturers specifically agree to preserve free competition between themselves. Each manufacturer may sell as much or as little of the products covered by this arrangement as he may decide or for which he can find a market. It is agreed that no penalty shall be sought to be imposed on any manufacturer who while conforming to this arrangement increases his sales or his proportion of the total sales of the manufacturers who have signed this document. "

(Serial 2215)

Audit of Records

Both the Board Sales agreement and D. P. L. agreement contain provisions for the audit of members' records. The clause in the D. P. L. agreement reads as follows:

"Audit

Each manufacturer agrees that auditors appointed by Paperboard Limited may at any time have access to and may make extracts from all books, records and papers of the manufacturer relating to sales of products covered by this arrangement. "

(Serial 2213)

The Board Sales agreement contained a clause requiring members to send Board Sales copies of all orders, invoices and other sales documents relating to products covered by the agreement and to furnish sworn statements that all transactions had been made as shown on the sales records submitted. The D. P. L. agreement contains similar provisions in the following form:

"Copies of Documents Relating to Prices

Each manufacturer agrees to transmit to Paperboard

Limited promptly in respect of every sale of the products covered by this arrangement copies of all orders, invoices, credit notes, debit notes and any other relevant documents. Each manufacturer further agrees that his executive officer in charge of sales, and his auditor, treasurer, controller, or other executive officer having full knowledge of the manufacturer's affairs, shall provide Paperboard Limited with a sworn statement on the fifteenth day of each month declaring that the manufacturer has observed the terms of this arrangement and the prices determined by Paperboard Limited on all sales during the preceding calendar month, and declaring that the manufacturer has not made loans to or for the benefit of any customer or prospective customer or disposed of any products except as shown on invoices, credit notes or debit notes delivered to Paperboard Limited, and declaring further that no rebates or commissions direct or indirect other than those disclosed by documents delivered to Paperboard Limited have been allowed or promised in respect of the products covered by this arrangement."

(Serial 2213)

Interchange of Statistics

Although the Board Sales agreement did not include a specific provision for the collection and circulation of statistical information about the operations of the individual manufacturers, such activities formed part of the operations of Board Sales. In the D. P. L. arrangement a clause relating to statistics forms an integral part of the agreement and it appears that when the change was made from Board Sales to D. P. L. the same series of statistics were continued. This is indicated by the following Bathurst inter-office memorandum of September 11, 1944:

"As from September 1st, 1944, we shall be operating under an agreement made with the following mills:-

Beaver Wood Fibre Co. Ltd.
J. R. Booth Limited
Brompton Pulp & Paper Co. Ltd.
Fraser Companies Ltd.
The Miller Brothers Co. Ltd.
Price Brothers Sales Corp.
Howard Smith Paper Mills Ltd.
St. Maurice Valley Paper Co. Ltd.
Strathcona Paper Co. Ltd.

under the name of Dominion Paperboard Ltd. of which Mr. W. H. O'Reilly is the Secretary-Treasurer.

We have agreed to follow our current price list, current grades, and current trade practices.

Covering sales from September 1st all statistics, copies of invoices, samples of boxboard, etc. hitherto sent to Board Sales Ltd. should now be addressed to

Dominion Paperboard Ltd.,
University Tower Bldg.,
Montreal, Que.

When all matters with regard to rearranged statistical records have been finalised I will write you again. In the meantime please continue to send everything as before except that it will be addressed as above."

(Serial 15617)

The clause in the D. P. L. agreement relating to statistics reads as follows:

"Statistics

Each manufacturer agrees to supply to Paperboard Limited statistics of his production and sales of the products covered by this arrangement in such form and at such times as may be requested by Paperboard Limited for the purpose of compiling trade statistics for the information and guidance of the manufacturers. Such statistics may include - (a) details of production and shipment of different grades and types of products; (b) details of both domestic and export shipments; (c) orders received, manufactured and unfilled; and (d) credit reports showing outstanding accounts and the amounts thereof."

(Serial 2214)

Duration of D. P. L. Agreement

The terms of the D. P. L. agreement provided that the arrangement would come in force on September 1, 1944 and continue until December 31, 1946, and should be automatically extended thereafter from year to year. The evidence does not indicate any change in this regard.

CHAPTER VI

ARRANGEMENTS BETWEEN D. P. L. AND GAIR AND HINDE & DAUCH IN REGARD TO STATISTICS

1. Situation at Beginning of D. P. L.

It will be recalled from the evidence reviewed in an earlier chapter that when Gair and Hinde & Dauch withdrew from Board Sales in May, 1944 efforts were made to have the two companies continue to participate in the exchange of statistical information conducted by Board Sales. The evidence, previously reviewed, shows that an arrangement with respect to statistics was made with Gair, but there is no evidence that an arrangement was made with Hinde & Dauch at this time.

It will also be recalled that when it became evident that Gair and Hinde & Dauch would not become signatories to the D. P. L. agreement the view was expressed that they should not be permitted to participate in the exchange of statistical information among those who became signatories. This view was apparently adopted as W. H. O'Reilly wrote the following letter to Gair on August 28, 1944:

"On the 29th May, I wrote advising you that as from the 1st June, 1944, we were prepared to provide you with certain paperboard statistics for a flat fee of \$280. a month.

I regret to advise you now that we will be unable to provide you with this statistical information as from the 31st August. Would you, therefore, take this as a notice that our agreement of the 29th May will end as of the 31st August.

This letter is written in duplicate original. So that we both may have a record of it, would you be good enough to note your acceptance on the duplicate and return it to us for our files."

(Serial 2659)

2. Negotiations with Gair and Hinde & Dauch for
Resumption of Interchange of Statistics

In the autumn of 1945 there were discussions between D. P. L. and Gair and Hinde & Dauch, which led to the latter companies participating in the exchange of statistical information through D. P. L. with respect to their current operations and also with respect to the preceding period during which they had not been furnishing such statistics.

Discussions had apparently been in progress prior to October 5, 1945, according to the following D. P. L. memorandum of that date:

"Gair and Hinde & Dauch wish to receive boxboard statistics from Dominion Paperboard and have their own statistics included as non-members. The statistics would include the Weekly Current and Cumulative Boxboard Reports, the Weekly Order Situation, the interchange of credit information, and the monthly compilation of shipments by grades.

In the first two, where names of companies are disclosed, they would be shown as non-members. In all the others, their identity would be lost in the general picture.

While no specific reference has been made to the annual statistical booklet, it is assumed that their figures would be included and where companies are named, they would be shown as non-members.

We should now prepare to present them with a formal offer of interchange and be prepared to name the cost.

Based on the first eight months of 1945, it is estimated that the expenses of operating Dominion Paperboard, with due allowance for year-end adjustments, will be \$25,417.

Based on shipments to the domestic market in the first eight months, it is estimated that the total domestic boxboard tonnage of the members of Dominion Paperboard and Gair and Hinde & Dauch will amount to 170,104 tons. At 15¢ a ton, this would produce \$25,516. In view of the fact that Gair and Hinde & Dauch will receive statistical services only, it does not seem reasonable that they should be charged the full 15¢ a ton. It is suggested, therefore, that they might be charged, say, 12¢ a ton. If this were done, Gair's share would be \$3,730 and Hinde & Dauch's \$2,039. I would suggest that the offer of statistics to Gair might be contingent on an annual payment from them to Dominion Paperboard of \$3,700 payable quarterly in advance,

and that the fee for Hinde & Dauch might be \$2,000 per annum payable quarterly in advance.

If this is done, the members of Dominion Paperboard would be paying \$19,717, which would be equivalent to 16.159¢ per ton instead of 25¢ per ton.

It is not suggested that the 25¢ per ton be changed in any way, and that the surplus be distributed to the members of Dominion Paperboard, and to them alone, at the end of each year."

(Serial 2223)

On October 9, 1945, L. F. Winchell of Hinde & Dauch wrote as follows to W. H. O'Reilly:

"Am enclosing letter just received from Charles Frohman.

Yesterday, in talking to him and Mr. Sidney Frohman about both statistics and cost data, Mr. Sidney Frohman thought it was in order to cooperate on the cost data, but when Charles got on the phone, he said that in each instance it would depend entirely upon the type of statistics to be furnished. I asked him what he meant, that I assumed you would supply the same as we had previously received, perhaps listing the members of Dominion Paperboard and then including us in 'All Others' but when it came to the more detailed breakdown, I did not know whether our name would appear on the statistics or not. So far as the costs were concerned, I told him that our costs were just going to be thrown in and averaged up with the costs as a whole, without any individual names appearing.

What Charles asked for was that you write him a letter, and if possible send him the forms that you would use in disseminating the information. Would you do this so we can get the matter brought to a head? We are having individual costs worked out now, and will be ready to submit them immediately as we get the 'go ahead' from the other side."

(Serial 2224)

The letter enclosed by Mr. Winchell, which was written by Mr. Frohman from Sandusky, Ohio on October 6, 1945, read as follows:

"I loaned my copies of the Glass case statistical Order to Parker Newhall, attorney for the Gair Company, and in returning them to me he wrote:

'I shall be interested in hearing what Mr. Winchell wrote you in response to your inquiry about the nature of the statistics proposed to be furnished to Canadian Board Sales. I understand from George Brown that they have in mind statistics of the kind now furnished in the United States to the National Paperboard Association by its members.'

Since the entire decision depends on the type of statistics proposed, I will hold up any further response to you until you can outline that phase of it to me."

(Serial 2225)

The following letter was written by W. H. O'Reilly to Charles E. Frohman on October 15, 1945:

"Lute [Winchell] has asked me to write you regarding the proposed interchange of statistics between this company and yourselves. I am, therefore, sending copies of this letter to you, to Lute and also to George Brown, as an interchange between this company and Gair Company Canada Limited is also in prospect,

You understand, of course, that we deal entirely with boxboard grades and exclude container board grades.

Attached, marked (1) and (2), are blank forms of our current and cumulative boxboard reports which are issued weekly. These reports can be revised to show Gair Company and yourselves in any mutually suitable way. Your company might appear in the alphabetical list marked with an asterisk with an explanatory note placed at the bottom that companies marked with an asterisk are non-members who enter the statistical interchange only. Or, we could change the 'Sub-Total' in the operations report to read 'Sub-Total of Member Companies'. Under it could be shown Gair and Hinde & Dauch and All Other non-members estimated. Below that could be shown the 'Sub-Total of Non-Members Companies', with a Grand Total. Similarly, in the shipments by use our present total could become a sub-total of member companies. Below it we could show Gair and Hinde & Dauch, with a sub-total of non-member reporting companies and a grand total. Please indicate your preference.

There is attached, marked (3), a blank copy of the weekly boxboard order situation, which would, of course, have to bear a note that it includes the order situation of Gair and Hinde & Dauch, who are non-member companies.

There is attached, marked (4), the monthly credit report

for the month of July. This, too, might bear a note that the accounts of Gair and Hinde & Dauch, who are non-member companies, have been included.

There is attached, marked (5), a comparison of box-board grades of the member companies for the first nine weeks of 1945 as compared with the first nine weeks of 1944. This comparison is prepared monthly for discussion at the monthly meetings. Here, we could adopt the same method of showing Gair and Hinde & Dauch as we adopt in the weekly operations and shipments report.

There is attached, marked (6), the monthly tonnage comparison of domestic shipments by grades. This particular statement is for the month of June, which shows the boxboard grades shipped by the member companies during the month compared with the figures for the first five months and gives the total for each grade for the first six months. Here again, it would be necessary to show that the figures of Gair and Hinde & Dauch who are non-member companies, had been included.

So far, I have dealt entirely with the regular statistical reports. As you know, we have embarked on a study of grade costs. There is attached, marked (7), a copy of a letter which went to the cost representatives of the member companies on Friday, the 12th instant, which reflects the yard-stick of measuring costs agreed upon at a meeting held on the 9th instant. It is proposed that the composite weighted average figure of cost of each grade reported by three or more mills be made available to all mills contributing cost figures to the study. In the event of any grade being reported by less than three mills, the figures will not be disclosed. You will appreciate that if they were disclosed, it would be very simple for one reporting mill to determine the cost of the other. In no instance will the costs of any one mill or company be disclosed to anyone else.

This is purely a fact-finding study. You will note that there is no provision for profit, as that is purely a matter of company policy and is not a cost matter.

I sincerely hope that I have covered all the questions that arise in your mind. If I have failed in any particular instance, I trust that you will not hesitate to ask for more information. "

(Serials 2226-27)

Replying on October 20, 1945, Mr. Frohman wrote:

"Thanks for your letter of October 15th with its enclosures.

I shall proceed to examine this matter and hope we can arrive at an early conclusion."

(Serial 2228)

The Statement of Evidence does not set out any later correspondence relating to the completion of arrangements with Hinde & Dauch but, according to the evidence of W. H. O'Reilly, cumulative figures covering the prior operations of Hinde & Dauch were received by D. P. L. before complete statistics had been obtained from Gair (Evidence, p. 452).

On November 19, 1945, D. P. L. wrote, as follows, to Gair:

"Re: Exchange of Statistics

Following discussions between your company and ourselves, we are now able to make you a specific proposal, covering an exchange of statistical information, for your consideration, and if satisfactory, your acceptance.

The statistics compiled on behalf of this company apply only to boxboard grades and do not include container board grades. On the basis of weekly confidential reports from the companies participating in the exchange the following reports are prepared:

1. Current Weekly Boxboard Report.
2. Cumulative Weekly Boxboard Report.
3. Weekly Boxboard Order Situation.
4. Monthly Credit Report.
5. Monthly Cumulative Comparison of Shipments.
6. Monthly Cumulative Comparison of Domestic Shipments by Grades.

Dominion Paperboard Limited believe that its statistical services will be improved if they can include the operating record of your company and that the resulting statistics will be mutually beneficial both to your company and to the shareholding companies of Dominion Paperboard Limited. We, therefore, invite you to participate in this statistical exchange by submitting information to our statistician who will include your figures in the reports he prepares.

We are anxious that the reports should show that your company is not a shareholding company of Dominion Paperboard Limited, but is exchanging statistics only. We will adapt our forms in any reasonable way to meet your wishes, but our suggestion is that: (a) Those forms on which company names

appear (i.e. the current and cumulative weekly reports) should show shareholders of Dominion Paperboard Limited in one group with a sub-total, and your figures and those of any other companies with whom statistics are exchanged, together with an estimate of non-reporting companies, also with a sub-total, and (b) forms on which company names do not appear should carry a footnote indicating that the statistics include reports from your company (and any others who are not shareholders of Dominion Paperboard Limited).

Our statistician will, if this proposal is accepted by you, confer with your officials and make any detailed arrangements necessary for the inauguration of this statistical exchange.

We believe it is desirable to go back to August 26, 1944, and to include your figures from that date forward in the cumulative reports. This will necessitate your providing our statistician's auditor with information concerning your past operations from which he can recalculate and revise the various cumulative reports.

The statistics provided to shareholding companies of Dominion Paperboard Limited are paid out of a general assessment which also covers other activities of the company. As you are not participating except in the statistical exchange, it is necessary to agree on some other basis for your contribution to the exchange of statistics. Dominion Paperboard Limited is prepared to exchange statistics with you as outlined above on the basis of a fee from your of \$2,500 per annum payable quarterly on the first of January, April, July and October of each year, the first payment to be due on January 1, 1946. For a payment of \$1,750 we will revise our statistics to include your figures from August 26, 1944, to December 31, 1945.

If this proposal is satisfactory to you, we will immediately have our statistician get in touch with whatever official you designate, so that the exchange of statistics can begin as soon as possible."

(Serials 2680-81)

Gair made the following reply on January 21, 1946:

"Re: Exchange of Statistics.

We refer to your letter of November 19th and are agreeable to exchanging statistical information on boxboard grades as outlined in yours of above date.

I regret the delay in acknowledging your letter but had

intended to discuss this with our American principals at a meeting called early in December but which was later postponed and as I did not get to New York until just recently, I was unable to get their views. In the meantime, however, I understand we have been supplying the information you require and wish you would send us statement for your fees as soon as possible."

(Serial 2702)

The basis of charging Gair and Hinde & Dauch an annual fee for the exchange of statistics was adopted and both companies have been charged the same amount each year. The annual fee of \$2,500 for each company was apparently continued until 1952, when it became \$3,250 (Evidence, pp. 369-70).

In the case of shareholder companies in D. P. L. and Gair and Hinde & Dauch the accuracy of the statistics reported is checked by the travelling auditor of D. P. L., who visits the offices of all companies participating in the exchange of statistical information, including Gair and Hinde & Dauch. While Gair and Hinde & Dauch do not send copies of their sales invoices and other sales records to D. P. L., as do the shareholder companies, their invoices are checked by the travelling auditor of D. P. L. for the purpose of determining the accuracy of the figures submitted in regard to shipments. The purpose for which invoices are checked by the travelling auditor of D. P. L. was explained as follows, in the evidence of W. H. O'Reilly:

- "Q. We have evidence from a representative of Gair that, in carrying out his audit, he examines the invoices of Gair. For what purpose does he examine those invoices?
- A. I assume it is to check on the correctness of their reports to us of grades.
- Q. And is he under instruction from you to examine those invoices with respect to prices?
- A. He is not.
- Q. And is he under instruction from you not to do so?
- A. That question has never arisen, because he has nothing to do with prices that are charged by Gair and by Hinde and Dauch.
- Q. And has he been instructed to that effect?
- A. He makes no report on prices that are being charged by any company, shareholder or non-shareholder."

(Evidence, pp. 197-98)

Other company records, such as those relating to production, are also checked by the travelling auditor to determine the accuracy of other statistical information which manufacturers report to D. P. L.

CHAPTER VII

THE BOARD SECTION OF C. P. P. A. AND DOMINION PAPERBOARD LIMITED

In accordance with the constitution of the Canadian Pulp and Paper Association, member companies have formed sections related to particular grades of paper manufactured. Such groups, known as trade sections, have been in existence from a very early period in C. P. P. A.'s activities and one such section, the Board Section, has been concerned with paperboard, including boxboard grades. The shareholder companies of D. P. L., being all members of C. P. P. A., have been members of the Board Section along with Gair and Hinde & Dauch and three or four other companies.

One of the allegations made in the Statement of Evidence is that, by reason of the membership of Gair and Hinde & Dauch and of the shareholder companies of D. P. L. in the Board Section, the former participated in the deliberations of the members of D. P. L. In support of the allegations the Statement of Evidence reviews the minutes of the Board Section and D. P. L. at considerable length and also other evidence, oral and documentary, relating to the activities of the two organizations. We do not consider it necessary to go over this evidence in detail as we do not believe that our appraisal of the effects of the practices and arrangements disclosed by the evidence has to be made dependent upon a finding as to the exact manner in which activities conducted through D. P. L. impinged on the conduct of the Board Section of C. P. P. A. There are, however, a number of aspects of the evidence relating to the relationship of the Board Section and D. P. L. which are not in dispute.

As has already been noted, the larger part of the membership of the Board Section of C. P. P. A. consists of shareholder companies of D. P. L. This resulted in the majority of those attending Board Section meetings also attending meetings of D. P. L. The practice has been to hold meetings of the Board Section on the same day and at the same place as the meetings of D. P. L. The meetings were so called that one would follow immediately on the other. In most cases the notices would announce a meeting of the Board Section at a time prior to that set for the D. P. L. meeting, although, on occasion, the D. P. L. meeting was called for a time prior to that announced for the Board Section meeting. There are some occasions when a meeting of one organization would be held without a meeting of the other being called. The Statement of Evidence reviews the records available in agenda, notices of meetings and minutes of the

Board Section and D. P. L., and it is shown that on a number of occasions these records indicate that there was an overlapping in time between meetings of the Board Section and D. P. L. Although the persons who prepared the minutes in the case of both organizations gave evidence that they endeavoured to record times accurately in the minutes, particularly the times of adjournment, they also testified that on no occasion did the two meetings proceed at the same time. Other witnesses who were examined on this point also gave unequivocal testimony that no meetings of the Board Section and D. P. L. were held so that the meetings or any portion of them overlapped. Representatives of Gair and Hinde & Dauch gave evidence that no representative of their respective companies ever attended a meeting of D. P. L. and other witnesses examined on this point gave evidence to the same effect.

The minutes of the Board Section and D. P. L., from January, 1947 on, show that on many occasions some of the same matters were discussed at meetings of both the Board Section and D. P. L. No explanation was given as to the reason discussion of the same subject should be held at two meetings at which the majority of the representatives at one meeting, the Board Section, constituted those participating in the D. P. L. meeting. It may be that on some occasions the discussion of the same subject at the second meeting was dealt with perfunctorily. This is borne out by two memoranda from the files of Eddy written by H. B. Woods of that company to N. B. A. Fair, who usually represented Eddy at meetings of the Board Section and D. P. L. but who did not attend meetings held on September 13, 1949. The minutes record the following subjects as having been discussed at the Board Section and D. P. L. meetings on that date:

<u>Board Section</u>	<u>D. P. L.</u>
Board and Box Imports	Shirt Boards
Statistics	Specialities
Pallets and Skids	Statistics

In the case of the Board Section minutes the subjects listed above are the marginal headings in the minutes for this meeting. No marginal headings are given in D. P. L. minutes and the subjects listed above are those which the minutes indicate were discussed. The two memoranda of Mr. Woods, that referring to the Board Section meeting being dated September 17, 1949, and the other, September 20, 1949, are as follows:

"SUBJECT: CANADIAN PULP & PAPER ASSOCIATION
BOARD SECTION MEETING SEPTEMBER 13TH.

The subject meeting was held in the Sun Life Building, commencing at approximately 10 o'clock.

In the absence of Mr. Pincott through illness, Mr. W. H. O'Reilly acted as secretary.

Minutes of the meeting held August 3rd, 1949 were read and approved. Following the minutes a report covering Board and Box imports for the first six months 1947, 1948 and 1949 were distributed and are attached hereto.

Statistics were then discussed and showed there was a very slight falling off during the month of August. Some of the Companies reported their backlog of orders has been very small and in some cases shutdowns had occurred, particularly the Bathurst Company, whom I understand was shut down for a week during August, due to lack of orders and we have been advised since the meeting that Howard Smith are also very short of orders.

Following the statistics an open discussion took place on the possibility of having to supply pallets. In one particular instance, Price Brothers have been requested to do so and have met this request with the approval of all members. After considerable discussion it was felt that it would be quite some time before the Box Makers would be in favor of this type of packing, due to the heavy cost of purchasing the proper type of equipment for the handling of pallets. It was further pointed out that the mills have a very large investment in skids and before any definite steps were taken it would be necessary to go very thoroughly into the matter of replacing skids with pallets.

The meeting adjourned at approximately 11:30, with the date of the next meeting set for October 4th in Montreal."

(Serial 25890)

"SUBJECT: DOMINION PAPERBOARD LIMITED -
MEETING OF SEPTEMBER 13TH

The subject meeting was held in the Sun Life Building, commencing at approximately 11:30 o'clock.

The minutes of the meeting held August 3rd, 1949 were read and approved.

Following the meeting the Agenda called for a discussion on pallets but since this item had been very thoroughly discussed at the Board Section Meeting, it was decided to omit further discussion.

A discussion then took place on shirt boards and the method presently being used. After a short review it was found that

any mills accepting orders for this item were applying the price of the grade ordered and all extra charges, such as caliper differential, cutting and any other charges necessary.

The next item under discussion resulted from a letter received by Mr. W. H. O'Reilly from one of the members advising price change on Plaster Board, covered by the specialty price schedule. It was learned that the notice was not received until seven days after the change had gone into effect and that this was contrary to the understanding covering the specialty price schedule of 72 hours notice for any changes put into effect. After considerable comment on this oversight by a member Company, it was very definitely decided that the arrangements set forth in the specialty price schedule must be strictly adhered to, since repercussions might have a far reaching effect.

Another member advised the meeting that he had been approached by a customer who wished to order 25 tons of Coloured Patent Coated. A reply to this question was to the effect that this grade could only be purchased in 50 ton quantities. This member then informed the meeting that his customer had advised him that another mill was prepared to accept the order. It was decided to approach the other mill and we have learned since that they have steadfastly refused to accept an order of this type for the above mentioned grade and if again requested to do so would discuss the matter further before accepting any order.

Since there were no other items to be discussed the meeting adjourned at approximately 12:45.

The date of the next meeting being set for October 4th, in Montreal. "

(Serial 25893)

It will be noted that, in regard to the D. P. L. meeting, Mr. Woods reported that a discussion on pallets was not held since this item had been thoroughly discussed at the preceding meeting. It will also be noted that he made no reference to the discussion of statistics at the D. P. L. meeting. The D. P. L. minutes for this meeting, however, set out comparative statistics in some detail, whereas the Board Section minutes merely record: "Mr. O'Reilly discussed statistics" (Serial 25333).

Another Eddy memorandum, prepared on October 10, 1949, by A. Welch, then Vice-President and General Manager of Eddy, refers to a recent meeting of the paperboard section which he attended but makes no reference to a D. P. L. meeting held on the same day. The Board Section and D. P. L. minutes show that Mr. Welch attended meetings on October 4, 1949. Mr. Welch had been with Eddy since the beginning of 1949 and these are the first meetings

in 1949 which he is shown as attending. His memorandum, addressed to N. B. A. Fair, Eddy's Sales Manager, was as follows:

"This will serve to remind you of the information we undertook to prepare for the next meetings of the Fine Papers and Paperboard Sections of the Canadian Pulp & Paper Association.

At the Fine Papers meeting, we undertook to come to the next meeting with the profit picture by grades as related to some one basic grade. On thinking about this since the meeting, while I believe George should pursue the preparation of such figures with Fred Caldwell, I don't think this information should be submitted or discussed at any meeting at which we are not present. The scheduled date for the next meeting has slipped my memory but I believe it was before our return to the East, and I suggest that you mention to Arthur Jewett before leaving on your trip that the subject be held over to the following meeting.

At the recent Paperboard meeting, we undertook to study our costs in relation to present selling prices in view of freight rate increases and other increased costs due to the Canadian dollar devaluation. I think that Harold Wood should discuss this with Fred Caldwell towards the preparation of some more definite figures than we have had up to the moment.

In the case of Paperboard, I would also suggest that the discussion and review of prices at a Paperboard meeting be held over, if this can be arranged with the Paperboard Section."

(Serial 25900)

The minutes of the Board Section for October 4, 1949, show the same subjects again discussed as at the meeting of September 13, 1949, referred to above. The minutes of the D. P. L. meeting, held on the same day, include the following:

"The implications of the devaluation in the Canadian dollar was discussed. The consensus was that manufacturing costs would increase, as the cost of fuels and all materials and repair parts imported from the United States would cost more in Canadian dollars. The extent of the increase in costs was not now thoroughly known. It was agreed that each director would study this question intensively and come to the next meeting thoroughly conversant with the situation.

The announced 8% increase in freight rates was discussed. It was agreed that each director would study this question also and come to the next meeting prepared to discuss the burden on his company that would be caused by increased freight rates on both incoming and outgoing freight."

(Serial 1553)

The preparation of statistics for D. P. L. is done by W. H. O'Reilly and Company, of which W. H. O'Reilly, Secretary-Treasurer of D. P. L., is the sole owner. The only function of W. H. O'Reilly and Company is that of statisticians for D. P. L. but W. H. O'Reilly is also an employee of C. P. P. A. and is Secretary of the Executive Board of C. P. P. A. Among his duties as an employee of C. P. P. A., W. H. O'Reilly acts in a purely supervisory capacity with respect to statistical activities of C. P. P. A. (Evidence, pp. 158-59).

The evidence tends to show that, unless the figures or report are otherwise designated, the statistics relating to boxboard grades of paperboard discussed at meetings of the Board Section are the statistics prepared under the direction of W. H. O'Reilly for D. P. L. In other words, the same statistics and graphs which are referred to in the minutes of D. P. L. are brought forward and discussed at meetings of the Board Section. This is not surprising in view of the fact that Gair and Hinde & Dauch participate in the exchange of statistical information through D. P. L., although not shareholder companies, and must be held to have as much interest in such statistics as the member companies. At one point in his evidence Mr. O'Reilly said, "These statistics are followed very closely by the manufacturers" (Evidence, p. 165), and he had reference to all companies participating in the interchange of statistics. In this situation it would follow that Gair and Hinde & Dauch would be equally interested in discussion of statistics which they helped to provide as the shareholder companies of D. P. L. The only way in which Gair and Hinde & Dauch could participate equally in discussions of such statistics would be to have representatives present for the discussions. The meetings of the Board Section which were attended by the representatives of Gair and Hinde & Dauch and by the representatives of the shareholder companies of D. P. L. provided the opportunity for the two non-member companies to participate equally in discussions of the statistics.

One of the provisions of the by-laws of C. P. P. A. is "The Association shall not consider or engage in the regulation of prices of products, restriction of territory or of output" (Exhibit H-1). It appears evident that this provision was known to those who participated in the Board Section either as employees of C. P. P. A. or as representatives of member companies. At the same time it is evident that there were discussions at times at Board Section meetings of factors which would have a bearing on prices. The minutes of a Board Section meeting of October 31, 1950, contain the following:

"LABOUR MATTERS

A discussion was held regarding the wage demands made by labour unions to pulp, paper and board mills."

(Serial 25367)

The following is included in D. P. L. minutes of a meeting on the same day:

"Since the last meeting of the Board, manufacturers in British Columbia had granted a 5% increase to labour with a minimum of 6 cents an hour and a maximum of 10 cents. Canadian International Paper Company had granted 5% with a minimum of 5 cents. Some Ontario mills were meeting the unions on November 2nd and some Quebec mills on November 7th or 8th. It was believed that the Fraser Companies were due to meet the unions this week. The consensus was that a pattern of 5% increase in wages might emerge. It was, therefore, apparent that in the event of this pattern emerging costs would be further increased."

(Serial 1597)

It would not be expected that the brevity of the reference to this subject in the Board Section minutes would indicate a less extensive discussion in one meeting than the other. In fact, as the Board Section meeting preceded the D. P. L. meeting, the reverse might be the case.

CHAPTER VIII

DETERMINATION OF PRICES BY DOMINION PAPERBOARD LIMITED

1. Price Determination during Period of Wartime Price Control

When D. P. L. began operations at the beginning of September, 1944, prices of boxboard grades of paperboard were subject to the wartime price control regulations then in effect. The situation was referred to, as follows, in the minutes of a D. P. L. meeting held on September 5, 1944:

"Under the provisions of Clause 5 of the written arrangement dated 14th August, 1944, it is provided that the prices, terms and conditions for the sale of paperboard products covered by the arrangement are to be determined from time to time by the Board of Directors of this Company. The matter was discussed and, having regard to presently existing price control regulations in force in Canada and to the need to establish reasonable and fair prices for the products covered by the arrangement, under present conditions of increased and increasing costs, it was agreed that prices for paperboard products covered by the arrangement should be determined at the same levels and subject to the same terms and conditions as now generally prevail in Canada."

(Serial 1746)

As the prices of boxboard grades of paperboard prevailing at the time the price ceiling was established had been determined by Board Sales, the action of D. P. L. resulted, in effect, in the latter adopting the price schedule previously established by Board Sales. The price schedules adopted by D. P. L. at this time consisted of three parts: (a) standard grades in standard calipers and standard colours, (b) standard grades in non-standard calipers or non-standard grades or colours and (c) certain paperboard products sold by manufacturers at prices, terms and conditions under special arrangement with particular customers. A fourth schedule was adopted which listed specialty products, the prices of which were to be notified to the Secretary-Treasurer by the respective manufacturer, and the Secretary-Treasurer was to notify other manufacturers of any intended changes in such prices, of which he was to receive notice not less than 72 hours in advance from the manufacturer of the particular specialty.

Increases in the maximum prices of paperboard, including boxboard, were authorized by the Wartime Prices and Trade Board in orders effective April 1, 1946, January 13, 1947 and April 3, 1947. It appears that on the occasion of each authorized increase D. P. L. adopted new price schedules on the basis of the advance in prices set out in the orders. These actions are summarized in the minutes of April 2, 1947, as follows:

"There was full discussion of the situation affecting the sale of paperboard, with particular emphasis on the factor of costs of production and increases in such costs. It was recalled that at the meeting of the directors on 3rd April, 1946, and again on 14th January, 1947, when an increase in government-controlled prices had been authorized, it had been felt impossible to make a new price schedule which would establish a uniform or general relationship between costs and prices for all grades. It was felt that the present authorized price increase was more in line with the general relationship between costs and prices, but it was realized that the increases would be only sufficient to meet increased costs of the lowest cost mills. Accordingly an increase in prices to the full amount permitted by the WPTB authorization would not result in prices that were out of line with current costs."

(Serial 1862)

Evidence to the same effect was given to the Commission by F. H. Mitchell who was Deputy Co-ordinator in the Pulp and Paper Products Division of the Wartime Prices and Trade Board during the period when price increases for paperboard were authorized by W. P. T. B. Mr. Mitchell said that the price increases first authorized only compensated for about one-half of the increased costs which a survey had shown to have occurred in the industry and that the increases subsequently authorized were to offset the balance of earlier higher costs and to allow, in part, for further increases in costs as well as to correct some anomalies which had arisen because of the use of percentage increases rather than specific price increases for particular products (Hearing, pp. 709-14).

2. Price Determination after Removal of Price Control

Following the removal of the price ceiling on boxboards in June, 1947, the prices, terms and conditions of sale of members of D. P. L. have been determined from time to time by its Board of Directors in the manner provided for in the agreement. From 1947 to 1953, both inclusive, there have been seven general price revisions, all increases in prices, made by the Board of Directors of D. P. L. On four of these occasions, the changes in prices were

first made by D. P. L. and followed within a brief period by Gair and Hinde & Dauch. On two occasions the initiative was taken by Hinde & Dauch and on one occasion by Gair. A summary of the documentary evidence relating to the price changes is given in the Statement of Evidence and this will be found in an appendix to this report.

A chronology of the price changes may be made as follows:

Price Increase of October, 1947

Hinde & Dauch trade letter dated October 7, 1947
announcing change in prices effective October 8, 1947.

D. P. L. meeting, October 14, 1947, adoption of new
price schedules, effective October 15, 1947.

Gair's new price list effective October 15, 1947.

Price Increase of May, 1948

D. P. L. meeting, May 4, 1948, adoption of new price
schedules, effective May 10, 1948.

Hinde & Dauch trade letter May 12, 1948, announcing
change in price effective May 12, 1948.

Gair's new price list effective May 17, 1948.

Price Increase of May, 1950

D. P. L. meeting, May 17, 1950, adoption of new price
schedules, effective May 22, 1948.

Hinde & Dauch's new price list effective May 25, 1948.

Gair's new price list effective May 25, 1948.

Price Increase of November, 1950

D. P. L. meeting, November 16, 1950, adoption of new
price schedules, effective November 20, 1950.

Hinde & Dauch trade letter dated November 22, 1950,
announcing change in prices effective November 22, 1950.

Gair's new price list effective November 21, 1950.

Price Increase of January, 1951

Hinde & Dauch trade letter dated December 29, 1950,

announcing change in price effective January 2, 1951, some revisions made in further announcement dated January 3, 1951.

D. P. L. meeting, January 4, 1951, adoption of new price schedules, effective January 8, 1951.

Gair trade letter dated January 5, 1951, announcing change in prices effective January 2, 1951.

Price Increase of June, 1951

Gair trade letter dated June 8, 1951, announcing change in prices effective June 11, 1951.

Hinde & Dauch trade letter dated June 11, 1951, announcing changes in prices effective June 11, 1951.

D. P. L. meeting, June 12, 1951, adoption of new price schedules, effective June 13, 1951.

Price Increase of November, 1953

D. P. L. meeting, November 10, 1953, adoption of new price schedules, effective November 16, 1953.

Gair's new price list effective November 23, 1953.

Hinde & Dauch changed prices about December 1, 1953.

The first D. P. L. meeting following the lifting of price ceilings from paperboard took place on July 22, 1947, in a railway car on a train travelling between Montreal and Grand Mere, P. Q. A meeting of the Board Section was held in the same car during the same trip and, although the minutes of the two organizations show some overlapping in the times of the two meetings, persons examined in the inquiry who were present on the train gave evidence that no overlapping occurred.

Although paperboard was removed from the price ceilings in June, 1947, maximum prices were maintained for most grades of wood pulp until September, 1947, and, as will be seen from the schedule of price changes above, no change in the prices of box-board were made until after that time. Some discussion of costs took place at the D. P. L. meeting on July 22, 1947, to which the following reference is made in the minutes:

"Several mills advised of experiencing an increasing trend of rising costs making some grades unprofitable. In view of an anticipated increase in cost of pulp when pulp is removed from

price control, it was felt that costs should again be carefully scrutinized. The secretary was instructed to obtain as much information as possible on present costs prior to the September meeting."

(Serial 1878)

The next D. P. L. meeting was held on August 27, 1947 and the minutes record that all mills should carefully survey their costs and that the directors should come to the next meeting "fully equipped with information on their cost increases" (Serial 1879).

Further discussion on costs is recorded in the minutes of the next D. P. L. meeting on October 2, 1947 and the minutes state:

"It was agreed that the examination of costs should be continued and reconsidered at the next meeting of the Board".

(Serial 1881)

The next D. P. L. meeting took place on October 14, 1947, and prior to this date, on October 7, 1947, Hinde & Dauch had announced increased prices of boxboard, effective October 8, 1947. The minutes of D. P. L. make no reference to the action of Hinde & Dauch but refer to discussion of further increases in costs and state that the principles set out in the agreement applicable to price determinations were reviewed and that new price schedules were adopted, effective October 15, 1947. A comparison of the price schedules of this period of D. P. L., Gair and Hinde & Dauch is referred to in the summary of the Director set out in an appendix in which it is stated that the price increases were identical with respect to all grades of paperboard and that all terms and conditions of sale weré identical except for certain discrepancies which are described. The oral evidence, not only in regard to this period but for the later years embraced in the inquiry is to the effect that prices for standard grades were substantially identical among D. P. L. members, Gair and Hinde & Dauch.

The price increase of May, 1948 was preceded by discussions of costs at prior D. P. L. meetings commencing with a meeting on February 3, 1948 when attention was drawn to announcements of increases in the prices of wood pulp. The minutes also state:

"The mills were urged to re-examine their manufacturing processes to determine if it would be possible for them to absorb these price increases at current selling levels of paperboard.

It was agreed that the committee consisting of G. T.

Cockerill, [Bathurst], N.B.A. Fair, [Eddy], C.M. Matheson, [Fraser], W. W. Miller, [Miller Brothers], and E. A. Smith, [Beaver], which had been appointed on the 12th day of February, 1945, would be charged with studying intensively the increasing cost of manufacturing paperboard."

(Serial 1898)

The minutes of the D. P. L. meeting of March 2, 1948, record that the committee to study costs had met on February 17, and was unanimously of the opinion that any decisions on selling prices should be deferred until the effect of the increased prices of wood pulp could be gauged accurately as well as the increase anticipated in labour costs and in freight rates.

Reference is made in the minutes of the D. P. L. meeting on April 6, 1948, to the fact that labour negotiations were in progress but had not been concluded. The minutes of the D. P. L. meeting on May 4, 1948, refer to the studying of costs by the committee charged with that duty, to reports of wage negotiations indicating the general pattern of wage increases and to announcements of increases in freight rates. The minutes then go on:

"The committee now reported that they had studied intensively the increasing costs, had weighed the effect of increased costs of pulps, freight and wages, and discussed their findings at length."

(Serial 1908)

This appears to be the last occasion on which the study of costs preparatory to an increase in prices was entrusted to a committee of D. P. L. Increases in costs which would arise out of devaluation of the Canadian dollar and a further advance of 8% in freight rates were discussed at the D. P. L. meeting on October 4, 1949 and the minutes record that each director would make an intensive study and come to the next meeting prepared to discuss the burden on his company. The minutes of the meeting of November 1, 1949, record that the directors had not yet completed the study of the effects of currency devaluation or the increase in freight rates. Such reports are indicated by the minutes to have been made at a meeting of D. P. L. on December 6, 1949, and the minutes record:

"It appeared that the average increase in costs was in the vicinity of \$1.50 a ton. The consensus being that it would be undesirable to request purchasers to absorb this increased cost, the matter was dropped."

(Serial 1557)

Further discussion of increased costs is referred to in the minutes of the D. P. L. meeting of April 4, 1950, which report that in addition to the factors reviewed at the meeting of December 6, 1949, there had been an additional increase in freight rates and advances in wage rates were being made. The minutes go on:

"Directors were urged to study the increased costs intensively, determine if any or all could be absorbed or if it would be necessary to review the prices at which boxboards are sold. One director stated that in spite of increased mill and machine efficiency brought about by capital expenditures in 1949 his company's costs in the month of February, 1950, had increased over February, 1949 by more than \$8.00 a ton."

(Serial 1569)

At the next meeting of D. P. L. on May 2, 1950, there was further discussion of costs, particularly in regard to increases in wage rates, but as some directors reported that they had not completed their studies of increased costs it was decided that another meeting would be held on May 17, 1950, "for the purpose of determining if it would be necessary to review the prices at which boxboards are sold" (Serial 1571).

The minutes of the D. P. L. meeting on May 17, 1950, record that the directors had completed their studies of increased costs and that:

"The consensus was that these increases in costs could not be absorbed by the manufacturers but must be partly compensated through an increase in selling price.

The principles applicable to price determination in the arrangement of the 14th August 1944 were reviewed. Having regard to general economic conditions and increasing costs mentioned above, the meeting gave careful consideration to the necessity to establish reasonable and fair prices for the products covered by the arrangement."

(Serial 1573)

At the D. P. L. meeting of October 3, 1950, there was discussion of the revaluation of the Canadian dollar, requests of certain labour unions for the reopening of wage contract talks and increased costs of materials since the outbreak of the Korean war. The minutes state:

"Directors were urged to study the increased costs intensively, determine if any or all could be absorbed or if it would be necessary to review the prices at which boxboards were sold.

It was agreed that directors would be urged to have this study completed prior to the next meeting of the Board. "

(Serial 1595)

The minutes of the next D. P. L. meeting on October 31, 1950, report that some directors had not completed their studies of costs. At the following meeting, on November 16, 1950, the minutes record that the directors reported that they had completed their studies of increased costs and that new price schedules were adopted. The minutes contain the following in regard to increased costs:

"Several directors reported that since the advance in box-board prices in May 1948 their costs had increased much more rapidly than the prices of board. As an example one director said that his costs had increased from fifteen to twenty-two per cent, depending on the grades manufactured. Another director said that his average costs over all grades had increased by nineteen per cent. The directors were reminded that in May of this year prices had been increased by seven per cent which was admittedly below the level of cost increases. It was the unanimous opinion that these increases in cost could not be absorbed but must be compensated for in part through an increase in selling price. "

(Serial 1599)

The first announcement of an increase in prices in January, 1951, was made by Hinde & Dauch in a letter to the trade dated December 29, 1950. The intervening minutes of D. P. L. do not record that the matter of a further increase in price was being considered prior to this time. At the D. P. L. meeting of January 4, 1951, according to the minutes, there was discussion of increases in the price of pulps as of January 1 and of waste paper imported from the United States. The minutes also refer to increasing costs of pulpwood. The minutes contain this paragraph:

"It was reported that two companies, not shareholders of this company, were requesting higher prices for boxboard grades manufactured by them as of January 2nd. "

(Serial 1618)

The letter of Gair to the trade was dated January 5, 1951, although the change in prices was effective as of January 2, 1951. As previously indicated, the price increase of D. P. L. was effective January 8, 1951.

The minutes of the D. P. L. meeting on May 1, 1951, refer to discussion of current wage negotiations and applications for

increases in freight rates which were considered as leading to higher costs of manufacturing boxboard. The minutes then state:

"The Secretary was instructed to draw these increasing costs to the attention of each Director with the request that each Director advise him not later than Monday, the 28th instant, of the amount per ton his company's costs would be increased thereby."

(Serial 1640)

On June 5, 1951, a meeting of D. P. L. was held at Brookfield Golf Club, Buffalo, N. Y. and a meeting of the Board Section was held at the same place immediately before the D. P. L. meeting. The minutes of D. P. L. state that the Secretary submitted an oral report on rising costs and the matter was tabled until the next meeting. Before the next D. P. L. meeting, which was held on June 12, 1951, Gair announced an increase in prices on June 8, to be effective on June 11. Hinde & Dauch issued a new price list on the latter date making a similar advance in prices, effective June 11. The minutes of the D. P. L. meeting on June 12, do not make any reference to the actions of Gair and Hinde & Dauch but state that the Secretary submitted an oral report on rising costs and that new price schedules were adopted, effective June 13, 1951. The increase in prices was similar to that made earlier by Gair and Hinde & Dauch.

The next increase in prices was made in November, 1953. The minutes of the D. P. L. meeting on October 20, 1953, state that a discussion took place on the increases in costs mills had experienced since June, 1951, but that as all mills had not made an extensive study the question of any action that might be necessary was deferred. The Board of Directors of D. P. L. met again on November 10, 1953, and the minutes state that mills which had not previously made an extensive study of cost increases reported on the results of their study which were thoroughly discussed. New schedules embodying increases in prices, effective November 16, 1953, were then adopted. Similar increases in prices were made by Gair on November 23, 1953, and by Hinde & Dauch around the first of December.

3. Study of Costs as Basis for Determination of Prices

The minutes of D. P. L. meetings indicate that, except on the occasion of the consideration of increased costs in 1948, it was not the practice to have a committee make a study of the factors giving rise to an increase in manufacturing costs. This is borne out by the following evidence of W. H. O'Reilly:

"Q. At the time of price changes, are cost studies made for

consideration by the directors?

A. Yes, by the individual directors, of all their individual costs, but not by anyone in Dominion Paperboard Limited. May I correct that last sentence. I said, 'not by anyone in Dominion Paperboard Limited'. I meant, 'not by any employee in Dominion Paperboard Limited'.

Q. On any occasion --

A. Oh, excuse me; we have from time to time sent out questionnaires respecting costs of particular operations or things like that, and compiled these for the information of the directors.

BY MR. HANSARD:

Q. When you say 'we', you mean the employees of the company?

A. Yes.

BY MR. GASCOIGNE:

Q. At the time of price changes, have there been appointed any ad hoc committees with respect to studying costs of production?

A. Not that I can remember. There may have been, of course.

Q. Now, you say that the individual directors examine their own costs at the time of price changes. Do they report on those costs, in detail, to the directors as a group?

A. It is hard to know what you mean by 'in detail'. When the directors are considering a change in price, it is customary for each director to report, or rather not to report, but in the discussion to mention how his company's costs have increased, and how he feels that this increase might be recovered. Does that answer your question?

Q. Does he come along to the meeting and say, 'with respect to chipboard, our costs of production, which formerly were '---so and so---' are now '---so and so,

A. It is possible that he has done so.

- Q. Is that the usual procedure, the usual way in which these costs reports are given?
- A. I should think the answer to that is yes, Mr. Gascoigne.
- Q. At the time of the price change in November of 1953, was that procedure followed?
- A. Yes.
- Q. By each director who was present?
- A. Some are a little more voluble than others.
- Q. And did the directors submit a written report?
- A. No.
- Q. Is it usual, after receiving such reports, for a sub-committee to be appointed to decide what is to be done about prices?
- A. No, it is not."

(Evidence, pp. 192-94)

It also appears to be the case that figures of the actual costs of manufacture in individual plants were not produced by company representatives at meetings of D. P. L. and, consequently, were not the subject of discussion before decisions were made as to changes in price schedules. The following evidence was given before the Commission by R. L. Weldon, President of Bathurst:

- "Q. . . . Can you tell the commission about the mechanics of price determination by D. P. L. at a meeting, first of all in relation to costs. Were costs considered prior to a change in the fixed price?
- A. Costs are always considered in our business. I mean, we cannot operate a business without considering costs and its relationship to selling price.
- BY MR. WHITELEY:
- Q. Are you referring to D. P. L. now?
- A. The question was, how was this done, I believe?
- BY MR. FORGET:
- Q. At the meetings of D. P. L. ?

- A. Naturally, we start with our own consideration of those things and as a result of such knowledge which we have in front of us all the time, there would be a time I am sure where those factors, in one form or another, would be brought out in the D.P.L. and enter into their consideration of price changes, price increases.

BY MR. WHITELEY:

- Q. Was each member informed as to the costs of the other?

- A. Not to my knowledge.

- Q. What costs did they discuss, then?

- A. They would discuss increased costs.

- Q. Of individual members?

- A. Of individual members to a degree. For instance, it is not our practice to reveal all our costs in detail to our competitors. We might do so under some circumstances, but in the normal course of events, if you were discussing a question of cost versus price, you discuss it by the difference -- at least, that is the normal way of doing it.

BY MR. FORGET:

- Q. You mean you discussed the increase in costs?

- A. Yes.

- Q. Would your representative or yourself when you attended, appear at these meetings with his own company's cost study in his hand or in his mind at least?

- A. I would say more often in his mind than in his hand. We keep normally, of course, monthly costs of our business in a consolidated form. We also keep cord costs and perhaps in many cases we have costs of individual runs as they are run, and our representative is familiar, he receives those costs and knows what they consist of, knows the factors that enter into a change in conditions, and generally speaking a familiarity of that kind so he is in a position to know what is happening within the cost structure."

(Hearing, pp. 278-80)

The evidence in the inquiry and that given before the

Commission leads to the conclusion that detailed figures of costs of manufacturing boxboard in different grades at the various mills did not form the basis of discussion at D. P. L. meetings when consideration was given to change in price schedules but that cost factors arising out of changes in wage rates, freight rates, costs of materials and related matters were usually taken into consideration.

4. Schedules of Special Prices to Certain Customers

There are a few products which have been sold at special prices by individual manufacturers to particular customers, these special cases and prices being set out in the schedule of prices issued by D. P. L. Thus for example the minutes of the D. P. L. meeting on November 10, 1953, when new price schedules were adopted, contain the following:

"On the same consideration as outlined above, the minute of the Board of the 12th day of June 1951 approving and determining prices, terms and conditions for certain paperboard products covered by the written Arrangement dated 14th August 1944 sold by manufacturers under special arrangement with particular customers is hereby revoked and, pursuant to Clause 5 of the written Arrangement, the sales by manufacturers listed in the first column of the following schedule of products listed in the second column at prices, terms and conditions set forth in the third column on sales to persons listed in the fourth column were on motion duly made, seconded and unanimously resolved, approved and determined:-"

(Serial 25245)

The manufacturers listed were Beaver, Eddy and Fraser, and 12 arrangements as to prices and terms of sale of designated products are set out; in some cases the same product is listed for the same mill for more than one customer but in no case is the same product listed for more than one mill. The customers involved in these special arrangements were Canadian Shredded Wheat Co., Kellogg Co. of Canada Ltd., Eddy Match Co. and Canada Match Co. Ltd.

In the Statement of Evidence, the Director made the following comment on this aspect of the activities of D. P. L. :

"This feature of the pricing system is obviously designed to protect the general price level from [from] strains which might otherwise result from competition among the members of D. P. L. for the business of certain large buyers. As indicated by the evidence, the two other companies [Gair and Hinde & Dauch] do not engage in this class of business."

5. Pricing of Specialties

Reference has already been made to provisions in the D. P. L. agreement relating to the pricing of specialties.

During his appearance before the Commission, R. L. Weldon, President of Bathurst, was asked to define a standard grade and a specialty and he gave the following evidence:

"Q. Now, how would you distinguish between standard grades and a specialty?

A. Well, of course in D. P. L. as we have set the picture up, we have schedules of standard grades. Those are familiar to everybody in the industry, and I believe they are familiar to almost everyone.

Q. I was just asking how you would define a standard grade and how you would define a specialty in order that we can appreciate the difference between the two products?

A. Well, a standard grade, on the whole, is a grade that has come into sufficiently common use to be manufactured by probably almost everybody who are members of D. P. L., if you are using D. P. L. standards, and a special grade is one in which the development has not reached any stage where it could be standardized in the sense of becoming a general standard throughout the industry."

(Hearing, pp. 291-92)

The listing of specialties and their prices has been carried on by D. P. L. since it began operations. The following is contained in the minutes of the meeting of September 7, 1944:

"The Secretary-Treasurer drew to the attention of the meeting the fact that there were certain grades of paperboard - usually referred to as 'specialties' - which were covered by the written arrangement dated August 14, 1944. In discussion, it was suggested that these 'specialties' frequently varied from one manufacturing mill to another and prices could best be established by each manufacturer in respect of the particular kinds and qualities of 'specialties' required by his customers.

'Accordingly, on motion duly made, seconded and unanimously carried, it was resolved that the prices, terms and conditions for the sale of those paperboard products known as 'specialties' which are listed below, shall, for each manufacturer who is a subscriber for shares in this Company,

be the prices, terms and conditions determined by him for the 'specialties' required by his customers. It was further resolved that each manufacturer should notify the Secretary-Treasurer of the prices, terms and conditions so determined for the types of 'specialties' which he manufactures, and should give to the Secretary-Treasurer reasonable notice (which shall not be less than seventy-two (72) hours notice) of his intention to change the prices, terms and conditions for the sale of any 'specialty'. It was further resolved that, on receipt of such notice of intention to change prices, terms and conditions for the sale of any 'specialty' the Secretary-Treasurer will advise other manufacturers who are shareholders of the Company, of such intended change. "

(Serial 2367)

Although the D. P. L. agreement and the extract from the minutes quoted above do not specifically define the conditions under which a particular product is placed on the list of specialties, it appears to have been the practice that a product would be classed as a specialty on approval of the Board of Directors of D. P. L. The minutes of D. P. L. record a number of occasions on which consideration was given to the classification of a particular product as a specialty. The following extract from the minutes of a D. P. L. meeting on February 4, 1954, is an example:

"It was reported that a demand had developed for 'Semi-Chemical Laminating Board'.

On motion duly made, seconded and unanimously carried, it was resolved that Semi-Chemical Laminating Board be added to the List of Specialties and that prices, terms and conditions for the sale of this grade would be for each manufacturer who has subscribed for shares in this company the prices, terms and conditions determined by him for the grade required by his customers. "

(Serial 25252)

The following is contained in the evidence of W. H. O'Reilly with respect to arrangements on specialties:

"Q. With respect to the Dominion Paperboard Limited specialties, have you as a practice sent those to any employee or officer of Hinde & Dauch or of Gair?

A. No.

Q. And have you ever done so?

A. Not that I can remember.

- Q. With respect to the list of Dominion Paperboard Limited paperboard specialties, what is the object of the publication of these prices?
- A. So that the shareholding companies may know what other shareholding companies are charging for these specialties.
- Q. And is there involved in that an understanding that each shareholder will protect the other shareholder's prices?
- A. No."

(Evidence, p. 184)

(The witness was then shown a schedule of D. P. L. "Paperboard Specialties".)

- "Q. Can you draw attention to any case where the same specifications are quoted by two shareholders, but the price is different?
- A. Yes.
- Q. Would you do that, please?
- A. Item No. 4, serial 2372, pulpboard sold by Consolidated Company, and this non-folding solid pulpboard, highly sized, by Miller Brothers; that was the same grade.

BY THE CHAIRMAN:

- Q. Do you mean it is a different description, but that it means the same thing?
- A. A different description, but it means the same thing, sir.

BY MR. GASCOIGNE:

- Q. And the Consolidated pulpboard is highly sized, as well?
- A. It must be, yes.
- Q. Are there any other examples of the same thing.
- A. I would think that on this item 2374, this Manila lined chipboard, coloured red, blue, green, black and chocolate would be the same as this folding chip, brown lined, or kraft lined. This Manila lined would be a white board, and these would be coloured. In one instance the price was \$170.50 a ton and in the other

it was \$168.50.

Q. Now, do you say that the Manila lined is the same as the brown lined?

A. Not the Manila lined, no, but the coloured.

Q. The coloured, red, blue, green and black?

A. Yes; that compares with the brown lined, with the same calipers, as you see. In one instance it says that the quantity discount applies, and in the other instance no quantity discount.

Q. With respect to these paperboard specialty prices, are they intended to apply to any sales by the shareholders to any customer, any sales of the products specified to any customer, or are they restricted to particular customers?

A. No, there is no restriction.

Q. Or to particular quantities?

A. No, not that I know of, or that I am aware of.

Q. Is it your experience that there are frequently occasions when more than one shareholder registers a different price for the same grade of specialty?

. . . .

A. Yes, I think I can say it is frequent.

Q. Is there any understanding among the shareholders that specialties should be quoted at the prices registered with you for inclusion in this list?

A. By whom? Do you mean by the man who files that with me?

Q. No; is there any understanding that that should be the price applicable to all shareholders of the company?

A. No, each shareholder makes up his own mind that he is going to charge for the specialties that he manufactures, and advises me of it, and we publish it.

Q. And there is no further understanding with respect to those prices?

A. Not that I am aware of.

BY MR. HANSARD:

Q. If we are leaving this document, I think there is one further question should be put, and that is that you have been referred to a bundle of sheets bearing numbers 2366 to 2421 and asked to pick out any examples you could find. I observed that you picked out two near the front of the pile of sheets. You have not attempted to exhaust the bundle?

A. No, I have not.

Q. I did not wish it appear that there are only two instances, that is all."

(Evidence, pp. 185-88)

In view of Mr. O'Reilly's evidence in regard to Serial 2374 that quantity discounts apply in one instance and not in the other the prices mentioned would not necessarily be the final prices. The actual listing for Miller gives a price of \$170.50 a ton in quantities of "10 tons or over, quantity discounts applying", whereas in the case of Strathcona, the other manufacturer, the price of \$168.50 is shown as net in quantities of 50 tons or more, no quantity discounts allowed.

The Statement of Evidence lists a number of examples of specialties for which descriptions as between two or more mills are very similar and for which similar prices were registered by each manufacturer. During argument, the representative of the Director referred to products described as 'slide & shell' stock which are listed as specialties and are apparently used for the manufacture of cigarette packages. In the case of one product, "No. 1 White Patent Coated Manilla Back", a similar class of product is shown in the D. P. L. price schedules. Three manufacturers registered similar prices for a product of this class in quantities of 50 tons and over and 100 tons and over and it was contended on behalf of the Director that the prices registered were quantity prices for a standard product. In the case of some of the products which are included in the D. P. L. schedule for special customers, described in the preceding section, the descriptions indicate a special grade.

In his evidence given before the Commission, W. H. O'Reilly testified that at the beginning of D. P. L. operations 30 products were classed as specialties and that the number is now 49. He also stated that one standard product had become a specialty but that no specialty had yet become standard (Hearing, pp. 611-21).

Computations based on analyses of invoices filed by member companies with D. P. L. were submitted to the Commission to show the relative proportions of shipments of specialties and of standard lines of boxboards. Tables submitted on behalf of D. P. L. and its members were stated to be based on analyses of invoices of assessment tonnage of shipments for the years 1953 and 1954 of D. P. L. members (Exhibits H-22 and H-23). For 1953, the proportion of specialties is given as 32.75% of assessment tonnage and for 1954, as 39.36%. The range, by individual companies, was from a low of 11.54% to a high of 75.70% in 1953 and from 15.20% to 89.82% in 1954. The tables as submitted are as follows:

"B O X B O A R D

COMPARISON OF STANDARD LINES AND 'SPECIALTIES'

1 9 5 3

Company	Assess- ment Tonnage	S p e c i a l t i e s		Standard Lines	
		Tons	% of Ass't.	Tons	% of Ass't.
Anglo-Can.	10617	2770	26.09	7847	73.91
Bathurst	24612	3421	13.90	21191	86.10
Beaver	18613	12114	65.08	6499	34.92
Consolidated	14817	7291	49.21	7526	50.79
Eddy	17800	3010	16.91	14790	83.09
Fraser	21845	2696	12.34	19149	87.66
Miller	15453	4056	26.25	11397	73.75
Minas Basin	3715	925	24.91	2790	75.09
Price Brothers	21388	9033	42.23	12355	57.77
St. Lawrence	9922	5182	52.24	4740	47.76
Smith, Hd.	9395	7111	75.70	2284	24.30
Strathcona	11984	1383	11.54	10601	88.46
T O T A L	180161	58992	32.75	121169	67.25

(Exhibit H-22)

"B O X B O A R D

COMPARISON OF STANDARD LINES AND 'SPECIALTIES'

1 9 5 4

Company	Assess- ment Tonnage	S p e c i a l t i e s		Standard Lines	
		Tons	% of Ass't.	Tons	% of Ass't.
Anglo-Can.	14962	4317	28.85	10645	71.15
Bathurst	25363	4907	19.35	20456	80.65
Beaver	19361	15543	80.28	3818	19.72
Consolidated	15118	9776	64.66	5342	35.34
Eddy	16878	3879	22.98	12999	77.02
Fraser	22511	3421	15.20	19090	84.80
Miller	15865	5164	32.55	10701	67.45
Minas Basin	3005	476	15.84	2529	84.16
Price Brothers	19023	8551	44.95	10472	55.05
St. Lawrence	8368	5283	63.13	3085	36.87
Smith, Hd.	8853	7953	89.82	900	10.18
Strathcona	12640	2347	18.57	10293	81.43
T O T A L	181947	71617	39.36	110330	60.64

(Exhibit H-23)

An analysis of invoices filed with D. P. L. for the month of February, 1953 was made in the office of the Director. The classification as between specialties and standard lines was stated to have been made by comparing the description and price on each invoice with the descriptions and prices shown in D. P. L. schedules and in the list of paperboard specialties. Particulars for eight companies were given during the argument and a statement giving the figures assembled for the 12 member companies of D. P. L. was submitted after the conclusion of the hearing. On the basis of this analysis, shipments of specialties were stated to be 25.55%, by weight, of the total of the shipments shown on the invoices for February, 1953. The proportions, on this basis, range from 2.86% to 61.80%, no breakdown being given in the case of one company.⁽¹⁾ The table as submitted by the Director is as follows:

(1) All sales of this Company, Minas Basin, were classed as Standard Grades.

"BOXBOARD INQUIRY"

IMPORTANCE OF SPECIALTIES IN TOTAL SALES

D. P. L. COMPANIES, FEBRUARY 1953⁽¹⁾

	Domestic Sales (Lbs.)		
	All Grades Col. 1	Specialties Col. 2	% Col. 2 to Col. 1
<u>Pulp Mills:</u>			
Anglo-Can. (N-E)	1,584,555	163,526	10.32
Bathurst	3,087,416	352,089	11.40
Consolidated	2,349,609	1,204,664	51.27
Eddy	3,051,006	240,659	7.89
Fraser	4,009,729	114,738	2.86
Price	3,606,326	1,116,774	30.97
St. Lawrence	1,731,574	1,020,424	58.93
Howard Smith	663,784	79,760	12.02
Total Pulp Mills	20,083,999	4,292,634	21.37
<u>Waste Mills⁽²⁾</u>			
Beaver	3,347,881	2,068,886	61.80
Miller	2,084,917	529,755	25.41
Minas Basin	369,160	-	-
Strathcona	2,035,307	241,263	11.85
Total Waste Mills	7,837,265	2,839,904	36.24
Grand Total	27,921,264	7,132,538	25.55

(1) Source: Invoices Serials 1 to 1542 checked against Schedule Serials 1644 to 1655, as amended or explained by Serial 1658 re Winnipeg freight, and other serials as indicated on tabulations. Job lot price, Serial 1773. Specialties list Serials 2366 et seq.

(2) Gair Co. and Hinde & Dauch are not included in this tabulation as they do not file invoices at D. P. L. office."

As has already been noted, the proportions of standard lines to specialties shown for individual companies vary greatly. The figures compiled by D. P. L. and set out in the tables above show standard lines forming 67.25% of total assessment tonnage in 1953 and 60.64% in 1954. These percentages are weighted substantially by the figures for four manufacturers whose proportion of specialties to assessment tonnage was 49% or more. It will be noted that the same

four manufacturers were in this class in 1953 and 1954. The following table presents the figures for the four firms taken together and for the other eight firms.

	<u>Assessment</u>		<u>S p e c i a l t i e s</u>		<u>Standard Lines</u>	
	Tonnage		Tons	% of Ass't.	Tons	% of Ass't.
4 firms*,						
total	1953	52747	31698	60.09	21049	39.91
	1954	51700	38555	74.57	13145	25.43
Other 8 firms,						
total	1953	127414	27294	21.42	100120	78.58
	1954	130247	33062	25.38	110330	74.62

* Beaver, Consolidated, St. Lawrence, Howard Smith

It will be noted that the relative increase in the proportion of specialties to standard lines between 1953 and 1954 was considerably greater in the case of the group of the four firms than in the case of the other eight firms. It will also be observed that in 1954 the proportions were almost exactly in reverse between the two groups. In the one case, specialties are shown approximately as three-quarters and standard lines, one-quarter, and in the case of the other eight firms, standard lines formed roughly three-quarters of the assessment tonnage.

CHAPTER IX

OTHER FEATURES OF D. P. L. ARRANGEMENT

1. Interchange of Statistics through D. P. L.

The earlier chapters of this report contain various references to the interchange of statistics through D. P. L., which interchange embraced not only the shareholding companies but also Gair and Hinde & Dauch. The evidence in the inquiry contains certain series of reports which have been based on the collection of figures from the individual companies on a weekly basis and which present such data for the current period or cumulatively and also with comparative figures for earlier periods. It does not appear necessary to review this material in detail but its general nature may be indicated.

The statistics furnished to and compiled by D. P. L. appear to fall, in the main, into the following classes:

1. Scale of production in relation to capacity (based on measure of size of last dryer on paperboard machine and number of hours operated).
2. Production by categories of boxboard (folding, set-up and all other).
3. Domestic shipments by categories of boxboard.
4. Export shipments by categories of boxboard.
5. Boxboard orders for domestic and export business by categories, embracing tonnage of orders unfilled, tonnage of orders received during period, total manufactured and tonnage of orders unfilled at end of period. Also included are tonnage of production made for stock ahead of orders and "days to run", that is, the number of days production represented by orders on hand.
6. Monthly report of domestic shipments classified by grades. These figures are compiled by D. P. L. from invoices sent in by shareholding companies and from reports by Gair and Hinde & Dauch, the latter being checked against invoices during visits of D. P. L. auditors to the companies' offices.

The evidence indicates that weekly and cumulative reports are mailed to the companies concerned but that the cumulative reports and comparisons derived from them are generally discussed at D.P.L. meetings. In some of the statistical compilations the reporting companies are classified as pulp and waste mills on the basis of the principal raw material used. The following extract from the minutes of the D. P. L. meeting of November 3, 1952, gives the record of the discussion on this occasion:

"Statistics for the first 43 weeks of this year were compared with statistics for the corresponding period in the last seven years.

Comparison disclosed that in the domestic market shipments of folding board were lower than 1950 or 1951 but higher than any other year. Shipments of set-up board were lower than in any other year except 1945. Shipments of other boards were lower than in 1948, 1949, 1950 and 1951 but higher than the other three years.

In the export market shipments of folding boards were higher than 1949, 1950 or 1951 but lower than any other year. Shipments of set-up boards and all other boards had reached a new low.

Comparison for the first 43 weeks of this year with 1951 disclosed that domestic business had decreased by 32,946 tons or 13.97% and export business had decreased by 4,347 tons or 11.01%.

The decrease in the domestic market was made up of 14,292 tons of folding boards or 11.95%, 5,521 tons of set-up boards or 15.66%, and 13,133 tons of all other boards or 16.22%.

The decrease in the export market was made up of 906 tons of set-up boards or 19.92%, 3,788 tons of all other boards or 16.21%, coupled with an increase of 347 tons of folding boards or 3%.

Comparison of total shipments made by companies during the first 43 weeks of this year with the similar period in 1951 disclosed that no company had shipped more tonnage this year than last. Eight companies had gained in percentage; six companies had lost in percentage.

Comparison of shipments by companies to the domestic market disclosed that only one company had shipped more tonnage this year than last. Seven companies had gained in percentage; one company had remained the same; and six companies had lost in percentage.

In the export market, of the 12 companies who had exported in the periods in each year three companies had shipped more tonnage this year than last. Four companies had gained in percentage; one company had remained the same; seven companies had lost in percentage.

Charts showing production, domestic and export shipments, the backlog of orders and the number of days to run were presented and discussed."

(Serials 1687-88)

It will be recalled that Gair and Hinde & Dauch, although participating in the interchange of statistics, are not members of D. P. L. and there is no record of their representatives attending D. P. L. meetings. Reference has been made earlier to the evidence that the statistics compiled by D. P. L. and discussed at meetings of D. P. L. were also presented and discussed at meetings of the Board Section of C. P. P. A., which were attended by representatives of Gair and Hinde & Dauch as well as by representatives of the members of D. P. L.

On November 3, 1952, the date of the D. P. L. meeting referred to above, the Board Section met immediately prior to the D. P. L. meeting. The minutes of the Board Section meeting contain the following reference to statistics:

"STATISTICS

Mr. O'Reilly distributed statistical reports; he discussed these and graphs with the members."

(Serial 25428)

The examples given below illustrate, first, one type of cumulative report sent by mail to companies participating in the statistical interchange and, second, one type of cumulative report discussed at meetings.

"CUMULATIVE

BOXBOARD REPORT

[Sent by Mail]

210 Working Days (35 Weeks)
Dec. 27, 1952 to Aug. 29, 1953

Issued August 31, 1953

OPERATIONS

1952			1953					Home Market Comparative Percentage	
Per Cent Active	Per Cent Produced	NAME	Per Cent Active	Produced Tons	Per Cent	Total	Shipped Export	Home	1952
54.0	2.50	Anglo-Can.	92.9	8567	3.50	8471	-	8471	3.78
84.8	5.72	Bathurst	89.2	15665	6.40	15207	269	14938	6.66
89.0	12.72	Beaver Wood	90.6	30598	12.50	30404	12416	17988	8.02
78.8	6.55	Consolidated	75.4	14394	5.88	14094	10	14084	6.28
87.6	5.22	Eddy	95.8	13265	5.42	12952	-	12952	5.78
95.2	7.12	Fraser	93.7	15481	6.33	15405	837	14568	6.50
77.7	4.01	Miller Bros.	87.6	10358	4.23	9952	79	9873	4.40
52.0	1.11	Minas Basin	53.6	2741	1.12	2651	-	2651	1.18
87.6	11.79	Price Bros.	76.1	22859	9.34	22713	3465	19248	8.59
86.5	2.68	St. Lawrence	97.5	7625	3.12	7449	25	7424	3.31
78.9	3.10	Smith	85.3	7649	3.13	7296	2	7294	3.25
76.7	3.10	Strathcona	89.6	8499	3.47	8218	-	8218	3.67
81.3	65.62	Sub-Total	84.7	157701	64.44	154812	17103	137709	61.42
83.4	13.39	*Gair-Canada	91.4	34113	13.94	34359	-	34359	15.32
93.1	5.31	*Hinde & Dauch	91.9	16800	6.86	16559	-	16559	7.39
-	15.68	All Other (E)	-	36111	14.76	35570	-	35570	15.87
-	34.38	Sub-Total	-	87024	35.56	86488	-	86488	38.58
-	100.00		-	244725	100.00	241300	17103	224197	100.00

[CUMULATIVE
BOXBOARD REPORT - concluded]
SHIPMENTS

DOMESTIC			NAME	EXPORT		
Folding	Set-Up	All Other		Folding	Set-Up	All Other
3983	1420	3068	Anglo-Can.	-	-	-
11914	2124	900	Bathurst	164	105	-
1361	3346	13281	Beaver Wood	-	-	12416
2448	952	10684	Consolidated	10	-	-
10636	1325	991	Eddy	-	-	-
13841	134	593	Fraser	26	-	811
1176	5904	2793	Miller Bros.	-	79	-
787	1053	811	Minas Basin	-	-	-
10446	349	8453	Price Bros.	588	2877	-
2243	1117	4064	St. Lawrence	-	-	25
6242	-	1052	Smith	2	-	-
1684	5721	813	Strathcona	-	-	-
66761	23445	47503	Sub-Total	790	3061	13252
19044	3592	11723	*Gair-Canada	-	-	-
14699	622	1238	*Hinde & Dauch	-	-	-
33743	4214	12961	Sub-Total	-	-	-
100504	27659	60464	Total	790	3061	13252

*Note: Non-Member Company - Reporting Statistics Only.

DOMINION PAPERBOARD LIMITED

Note (E) - Estimated on first 7 months' performance of 1953"

(Serial 2011)

"REPORT NO. 3

17 Weeks
1954

DOMINION PAPERBOARD LIMITED
SHIPMENTS-BOXBOARD GRADES

[Report prepared for meetings]

17 Weeks
1954

-144-

NAME	DOMESTIC							
	Folding Boxboards		Set-Up Boxboards		All Other		Total Boxboard	
	Tons	Per Cent	Tons	Per Cent	Tons	Per Cent	Tons	Per Cent
<u>PULP MILLS</u>								
Anglo-Can.	2423	4.62	985	7.54	1294	4.18	4702	4.88
Bathurst	6337	12.08	985	7.54	1044	3.37	8366	8.67
Consolidated	1027	1.96	409	3.13	5694	18.41	7130	7.39
Eddy	5041	9.61	531	4.07	308	1.00	5880	6.10
Fraser	7203	13.73	31	.24	346	1.12	7530	7.86
Price Bros.	4997	9.53	175	1.34	3836	12.40	9008	9.34
St. Lawrence	850	1.62	427	3.27	2290	7.40	3567	3.70
Smith HD.	3108	5.93	-	-	440	1.42	3548	3.68
Sub-Total	30986	59.08	3543	27.13	15252	49.30	49781	51.62
<u>WASTE MILLS</u>								
Beaver Wood	697	1.33	1640	12.56	7057	22.82	9394	9.74
Miller Bros.	634	1.21	3061	23.44	1866	6.03	5561	5.77
Minas Basin	437	.83	414	3.17	183	.59	1034	1.07
Strathcona	1014	1.93	2797	21.41	415	1.34	4226	4.38
Sub-Total	2782	5.30	7912	60.58	9521	30.78	20215	20.96
*Gair-Canada	10418	19.87	1305	9.99	5651	18.27	17374	18.01
*Hinde & Dauch	8261	15.75	300	2.30	512	1.65	9073	9.41
Sub-Total	18679	35.62	1605	12.29	6163	19.92	26447	27.42
Total	52447	100.00	13060	100.00	30936	100.00	96443	100.00

[DOMINION PAPERBOARD LIMITED
SHIPMENTS-BOXBOARD GRADES - concluded]

EXPORT

NAME	Folding Boxboards		Set-Up Boxboards		All Other		Total Boxboard	
	Tons	Per Cent	Tons	Per Cent	Tons	Per Cent	Tons	Per Cent
PULP MILLS								
Anglo-Can.	-	-	-	-	-	-	-	-
Bathurst	78	9.20	-	-	-	-	78	1.04
Consolidated	138	16.27	-	-	-	-	138	1.84
Eddy	-	-	-	-	-	-	-	-
Fraser	83	9.79	-	-	373	7.22	456	6.09
Price Bros.	532	62.74	1472	100.00	-	-	2004	26.77
St. Lawrence	-	-	-	-	95	1.84	95	1.27
Smith HD.	17	2.00	-	-	-	-	17	.23
Sub-Total	848	100.00	1472	100.00	468	9.06	2788	37.24
WASTE MILLS								
Beaver Wood	-	-	-	-	4698	90.94	4698	62.76
Miller Bros.	-	-	-	-	-	-	-	-
Minas Basin	-	-	-	-	-	-	-	-
Strathcona	-	-	-	-	-	-	-	-
Sub-Total	-	-	-	-	4698	90.94	4698	62.76
*Gair-Canada	-	-	-	-	-	-	-	-
*Hinde & Dauch	-	-	-	-	-	-	-	-
Sub-Total	-	-	-	-	-	-	-	-
Total	848	100.00	1472	100.00	5166	100.00	7486	100.00

* Note: Non-Member Company - Reporting Statistics Only."

(Serial 25944)

An annual compilation is also made of statistics furnished to D. P. L. The foreword to the compilation for the years 1945-54, signed by W. H. O'Reilly, reads as follows:

"The statistics of Dominion Paperboard Limited, as presented in this booklet, show the production, domestic and export shipments of the shareholding companies for the past ten years so that gains or losses from year to year may be studied by the companies affected thereby.

In addition to the figures of production and shipments of the shareholding companies there are included the figures of Gair Company Canada Limited and Hinde & Dauch Paper Company of Canada Limited who are not shareholding companies but who enter the statistical interchange.

Incorporated in the booklet will be found both charts and tables of production, shipments and backlog of orders as well as a record of prices for the principal boxboard grades for the past ten years."

(Exhibit H-18)

The examples of statistical tables which have been set out above illustrate an outstanding feature of many of the series of reports based on the statistics furnished to D. P. L., namely the presentation of the positions of individual manufacturers with respect to production and domestic and export shipments. It will be noted that not only are the tonnage figures given but that the percentage position is shown, together with comparisons for a previous period. In the case of the annual compilations such comparisons are presented for the years covered. The recording of discussions at D. P. L. meetings in regard to statistics, of which one example is given above, also indicates that close attention was given to the market position of individual companies. It necessarily follows that one of the purposes for the collection and compilation of statistics was to enable each company participating in the statistical interchange to be aware at all times of its own position in the market and, more especially, of the position of each other company. The distribution of total figures would have enabled each company to determine its own position because it could relate its own figures to the total. The presentation of individual company figures must have been for the purpose of enabling each company to observe the positions of other companies.

2. Standardization of Boxboard Grades

Standards of quality for the principal grades of boxboard had been adopted by Board Sales in its operations and these were

applicable to member companies at the time wartime control orders came into effect. In April, 1942, Order A-123 of the Wartime Prices and Trade Board was issued as part of the wartime conservation programme. This order was entitled "Respecting Economies, Simplifications and Conservation in the Production of Paperboard". With respect to boxboard grades the order restricted the grades of folding and non-folding board which might be manufactured for conversion into set-up boxes and folding cartons in lots of less than 50 tons. Two additional grades were included in an amending Order, A-436, issued in October, 1942 and the restrictions remained in effect until revoked by W.P.T.B. Order No. 777, effective December 31, 1947.

Soon after D. P. L. began operations in 1944, formal action was taken to adopt samples of standard grades. The minutes of the D. P. L. meeting of December 6, 1944 contain the following:

"The report of the committee appointed to choose samples for standard grades was presented. After discussion it was moved, seconded and unanimously resolved that the samples of the following grades recommended by the committee be and they hereby are considered as the standard for the grade:

Chipboard - both grey and container
Screenings - plain and grey
No. 2 Filled Pulp
Bleached Manilla Lined
Brown Lined - grey lined
No. 2 Patent Coated

The choosing of a standard for White Vat Lined was deferred until the next meeting."

(Serial 1774)

From time to time minutes of D. P. L. meetings record that samples of standard grades have been reviewed and that action has been taken to include additional colours or grades among the standard lines. It will be recalled that, with respect to specialty lines, approval is given by resolution to the inclusion of additional lines.

Mr. W. H. O'Reilly gave the following evidence in regard to the establishment of standards and the work of the sample committee:

"Q. And what are these committees?

A. The only one I think now that is in existence is what is called a sample committee. And, for convenience, it is comprised of the directors resident in Montreal. Each manufacturer sends to us out-turn samples of the grades

covered by the Dominion Paperboard Limited arrangement, which are compared with the standard samples which have been set up for those grades. And this sample committee reviews these samples from time to time.

Q. And who set up the standards?

A. The board of directors.

Q. At the directors meeting?

A. Yes.

Q. Do you, as secretary of Dominion Paperboard Limited, receive samples from Hinde and Dauch?

A. I think the only time I remember receiving samples from Hinde and Dauch was -- regularly, no -- and the only time I can remember receiving samples was some years ago when I asked Colonel Arnoldi if he would send some samples of their manufacture of bleached manilla lined board.

Q. Why did you ask him that?

A. So that we might compare their offerings of that grade with the standard that we had set up.

Q. And did you compare them?

A. We did compare them, and we raised the standard to meet the Hinde and Dauch quality.

Q. And is that the only occasion upon which you can remember receiving samples from Hinde and Dauch?

A. Yes.

Q. Then, with respect to Gair, do you regularly receive samples from Gair?

A. Of all grades?

Q. Yes.

A. No; Gair sends me occasionally very small samples, about twice the size of that cigarette case there, and [on] their offerings of number one patent coated board. And that is the only sample I see from them. And when I see that sample I deposit it in the wastepaper basket, because

Gair should not send me samples of any kind.

Q. Do you send to Gair samples of the manufactures of other mills?

A. Frankly, I can't remember.

Q. I am asking you whether you do it as a practice?

A. No.

Q. Now I ask you whether you can recall any occasion upon which you did it?

A. And the answer is, frankly, that I cannot remember. But I may have given Mr. Babbitt a set of standard samples at one time. I don't remember having done so, but I may have done so.

Q. You say you attend meetings of this committee on standards?

A. That is correct.

MR. HANSARD:

You mean the committee on samples?

BY MR. GASCOIGNE:

Q. 'Standards' is the right name, is it not?

A. A committee on samples, -- it is generally referred to as a samples committee.

Q. And that committee sets up standards?

A. No, the standards are set by the board.

Q. The board does that?

A. Yes.

Q. With respect to this committee on samples, to your knowledge is there any understanding between the members and Hinde and Dauch that the standards are applicable to that company?

A. No.

Q. And is the same answer correct with respect to Gair?

A. Yes."

(Evidence, pp. 190-92)

The following evidence was also given by Mr. O'Reilly in regard to the exchange of samples:

"Q. I refer you to document No. 15167 and a photostat of the back of that document which is numbered 15168, and I see by No. 15168 that this letter was supposed to have been sent to you amongst others?

A. Yes, sir.

Q. This letter states that enclosed are samples of certain of the products of Beaver [Bathurst] Power & Paper Company?

A. It states that they are enclosing a sample of No. 1 Patent Coated Manilla Back. No. 1 Patent Coated is the top boxboard grade. That is it.

MR. GASCOIGNE:

That is a cigarette box.

THE WITNESS:

The mills make the best possible grade that they can in No. 1 Patent Coated and to keep each other informed they interchange a sample of this No. 1 Patent Coated. It is the only grade upon which samples are interchanged between the mills.

Q. Is that the only purpose in interchanging samples?

A. Yes. As one mill makes an improvement in grade, all the other mills strive to reach it.

Q. Did the Dominion Paperboard Limited itself have samples of the materials produced by each of its members?

A. Pretty well, sir.

Q. Were these samples discussed at the meetings of the Dominion Paperboard Limited?

A. The Dominion Paperboard - the members of the Dominion Paperboard Limited have standard samples for the main boxboard grades excluding No. 1 Patent Coated. The standard samples cover No. 2 Patent Coated, bleached manilla lined folding pulpboard, screenings board, white vat lined and chipboard. I think these are

the only grades upon which they have standards. I beg your pardon; they also have corrugated boards, screenings or chip coloured brown or coloured grey which are standard grades.

- Q. I show you a document No. 15169, which is a teletype from the files of Bathurst, dated January 7th, 1953, and referring to a meeting held on the previous day at which new standards for one or two grades have been determined. Do you know if such a meeting was held at Dominion Paperboard Limited?
- A. I could determine that by referring to the minute book, sir.
- Q. If there was a meeting it would have been on the 6th January?
- A. Yes.
- Q. Which is the same date as the date of the previous letter referred to, No. 15167, from Bathurst to Howard Smith?
- A. All right, sir, but there are not standard samples of No. 1 Patent Coated.
- Q. But No. 1 Patent Coated Manilla Back?
- A. Either manilla back or news back.
- Q. In this teletype it says: 'One has a new standard for B.M.L.'
- A. Bleached manilla lined newsback.
- Q. This continues: 'And the one decided upon is our board.' What does that mean?
- A. That means that the standard sample decided upon at this meeting to replace the previous standard sample was the board that Bathurst manufactured.
- Q. Would that be the board mentioned in their letter of January 6th, of which they were sending a sample?
- A. Absolutely not. This letter of January 6th, No. 15167, refers to Patent Coated newsback and Patent Coated manilla back. There are no standard samples of either No. 1 Patent Coated.

- Q. I show you documents bearing Nos. 15167, 15202, 15232, 15251 and 15263, which are documents dealing with the exchange of samples and results of tests made on different products?
- A. Yes, sir.
- Q. This seems to be fairly general that the members would exchange samples, or was it sent to Dominion Paper-board Limited?
- A. The manufacturers of No. 1 Patent Coated upon which there was no standard interchanged these samples with each other. The Bathurst Company has a brightness test and they subject these samples to this brightness test and take off the various readings and advise me of the readings, and I then advise the mills who sent them samples also of their readings. These samples are interchanged between the manufacturers of No. 1 Patent Coated, including Gair and Hinde & Dauch.
- Q. They keep you advised?
- A. The mill making the test advises me of the test.
- Q. What would be the purpose of keeping competitors advised of the results?
- A. I explained to you a few minutes ago that this is the top grade. It is the best that the mill can make, and whenever a mill makes an improvement the other mills want to know and see if they can get after it, too."

(Evidence, pp. 452-55)

When J. S. Babbitt of Gair was asked about the exchange of samples, he gave the following evidence:

- "Q. Do you supply him [W. H. O'Reilly] with samples of the boards you make?
- A. We do not.
- Q. Have you ever, in your experience?
- A. We did in the last war submit samples, when the administrator requested them for comparative purposes -- for comparison between the mills.

Q. Since the end of the war, have you supplied from the Montreal mill any samples of your board?

A. No, we have not.

Q. Have you received from Mr. O'Reilly any samples of board made by other mills?

A. We have not, no.

Q. Have you submitted any samples to other board manufacturers for their comparison?

A. Not from the Montreal mill. We have submitted samples from the box plant, where we would like to have a similar grade from a mill.

Q. Since the end of the war, have you never submitted any samples of a recent manufacture of boxboard to another producer of boxboard?

A. Not that I know of, not to my knowledge.

Q. You do not do it as a practice?

A. No, we do not.

Q. And do you receive from Mr. O'Reilly samples of boxboards?

A. No, we do not.

Q. Do you receive them from other mills?

A. No, we do not.

Q. And when you say that, you refer to the Montreal operation?

A. I refer to the Montreal operation -- that is, the Montreal mill.

Q. Is your company a member of the Canadian Pulp and Paper Association?

A. We are.

Q. And is it a member of the board section?

A. We are.

Q. And do you submit any samples of your manufactured grades of paperboard to their organization?

A. We do not.

Q. Do you receive any samples from them?

A. We do not.

Q. Has there been any change in the classification of grades as 'standard' and 'non-standard' since the war period?

A. To my knowledge there has not, no.

BY THE CHAIRMAN:

Q. Do you mean there have been no new special grades at all since that time?

A. He is speaking of standard grades.

Q. I thought he said 'standard' and 'non-standard'?

A. Did you say 'standard' and 'non-standard'?

BY MR. GASCOIGNE:

Q. Yes, what about that? Have there been any changes in standard grades since the war period?

A. Not that I know of.

Q. And, with respect to 'non-standard'?

A. Non-standard are things which may come up any day.

Q. There have been specialties added, in other words?

A. That is right, yes."

(Evidence, pp. 28-31)

As established by the evidence of W. H. O'Reilly quoted above, with respect to No. 1 Patent Coated News Back and No. 1 Patent Coated Manilla Back, for which no standards had been adopted by D. P. L., it was the practice for the mills interested in these grades, including Gair and Hinde & Dauch, to have samples of their production tested at the Bathurst mill and the results of these tests were sent to Mr. O'Reilly who then advised the mills. Correspondence included among the exhibits in the inquiry makes more frequent reference to samples from Hinde & Dauch than from Gair. The following are examples of the reports made by Bathurst to W. H. O'Reilly:

Letter of March 18, 1953

"We are pleased to give you herewith results obtained on our Brightness Tester on the Patent Coated samples representing February makings.

<u>FEBRUARY</u>	<u>#1 P.C.M.B.</u>	<u>#1 P.C.N.B.</u>
Bathurst	80	77
E. B. Eddy Co.	80	78
Fraser Co.	79	78
Gair Co.	-	78
Price Bros.	76	78
Howard Smith	78	78"

(Serial 15232)

Letter of July 17, 1953

"We are pleased to give you herewith results obtained on our Brightness Tester on the Patent Coated samples representing June makings.

	<u>#1 P.C.N.B.</u>	<u>#1 P.C.M.B.</u>
Bathurst	79	78
Hinde & Dauch	79	-
E. B. Eddy	78	79
Fraser	78	79
Price Bros.	78	77
Howard Smith	-	77"

(Serial 15293)

It appears to have been the practice of Bathurst to send samples of its current manufacture of No. 1 Patent Coated boards to the following companies:

Howard Smith
Gair
Fraser
Eddy
Hinde & Dauch
Price Bros.
Beaver
D. P. L.

Samples of No. 1 Patent Coated News Back were also sent by Hinde & Dauch to Bathurst. The letters enclosing the sample state that it has been sent "in accordance with your request" but the evidence does not indicate whether the request was a standing one or not.

As indicated by the evidence of W. H. O'Reilly, quoted earlier in this chapter, standards of quality for the main boxboard grades, except No. 1 Patent Coated, have been established by D.P.L. It must be concluded that this has been done as part of the system of control under the D. P. L. agreement.

Mr. Babbitt of Gair, part of whose evidence appears earlier in this section, stated that he did not know of any changes in standard grades since the war period. With respect to No. 1 Patent Coated boards the evidence shows that mills are kept informed of the quality the others are making and all endeavour to achieve as good results as the best of which they are informed.

3. Supervision of Conduct of D. P. L. Members

It would be expected that under conditions of relatively sustained demand for boxboard which have prevailed since D. P. L. was formed, problems of securing adherence to the terms of the arrangement would be less likely to arise than under conditions of a weaker market. At all events the minutes of D. P. L. do not contain any references to discussions of infractions although, according to the evidence of W. H. O'Reilly, there have been very infrequent discussions of this nature.

It has already been mentioned that shareholding companies submit to D. P. L. copies of all sales records relating to products covered by the D. P. L. arrangement. The prices shown on these sales invoices are carefully checked by P. W. Haslam, an officer of D. P. L. The nature of the checking was described, as follows, in the evidence of W. H. O'Reilly:

"Q. What does Mr. Haslam do in connection with checking all these?

A. He checks the prices against the prices that have been arrived at by the directors of Dominion Paperboard Limited. He checks the prices that were charged.

Q. The prices charged?

A. Yes.

Q. And, as a consequence of this check, is any further action taken?

A. Under what circumstances?

Q. Let me ask this question: what is the purpose of the check of these invoices?

A. To make sure that the customers are not being overcharged on prices that have been arrived at, or undercharged on prices that have been arrived at.

Q. And if Mr. Haslam finds that they are overcharged or undercharged, what instructions has he as to future action?

A. He generally comes to me and if it is a case of an overcharge I would telephone the company that has made the overcharge, and point out to them that possibly, through an error on their part, there has been an overcharge, and I would suggest that they issue a credit note to the customers immediately. Then, in the case of an undercharge I inquire why, and generally I find it is some stupid mistake.

Q. Do you take any further action in a case of that kind?

A. Generally report it to the board of directors.

Q. And what do they do?

A. There is not anything that they can do; there are not penalties.

Q. Do they discuss the matter?

A. They discuss the matter, and generally give the offending person the devil.

BY THE CHAIRMAN:

Q. Verbally?

A. Yes, verbally.

BY MR. HANSARD:

Q. May I interject a question at this point; is that a frequent occurrence?

A. Most infrequent.

BY MR. GASCOIGNE:

Q. In these instances where there are overcharges or undercharges, are the subsequent vouchers sent to you by the companies?

A. Yes.

Q. That is, a credit or debit note.

A. Yes.

Q. In all instances in which an overcharge or undercharge has taken place, have you received a debit or credit note?

A. When you say 'all such instances', that covers a pretty wide territory. I cannot answer to that; but I think in the majority, that is so.

Q. Can you remember any occasion upon which you did not receive a credit or debit note in such instance?

A. No.

THE CHAIRMAN:

One question in my mind is this; Mr. O'Reilly has said that where there was an instance of an overcharge he notified the company and requested that they correct it and make a credit note to the customer. He has not said that he requested them to make a debit note to the customer in the case of an undercharge.

MR. HANSARD:

I thought he did.

THE CHAIRMAN:

I understood him to say that he gave them the devil, but I did not understand that there was anything further.

THE WITNESS:

At times debit notes to the customers have not been sent.

THE CHAIRMAN:

That is what I suspected might be the case. I did not recall that you said that you requested them to issue debit notes. That is why I wished to be clear as to what did happen in regard to those situations, which are difficult to handle.

THE WITNESS:

Had it been a stupid mistake, and had a debit note been issued, there would have been no reason to report it to the next meeting of the board of directors. In other words, there have been infractions --

BY MR. GASCOIGNE:

- Q. So that, on occasions, I take it, when an undercharge has come to your notice you have not reported it to the board of directors?
- A. When it was corrected by a debit note, yes.
- Q. And after such an infraction has been reported to the board of directors, can you remember any occasion on which a debit note was not subsequently issued?
- A. No -- oh, I beg your pardon, do you mean -- I cannot remember any -- the thing I mean is that, even after it has been reported to the board of directors, I don't remember any occasion upon which a debit note covering that transaction was issued.
- Q. Oh, I see. But, on occasions when you have brought the matter to the attention of a shareholder, he has corrected it before a board of directors meeting?
- A. There have been such occasions, yes.
- Q. How frequently has this situation arisen?
- A. Oh, very infrequently."

(Evidence, pp. 171-74)

The D. P. L. arrangement also provides that a sworn statement is to be submitted each month to D. P. L. by the executive officer of each shareholding company, declaring that the manufacturer has observed the terms of the arrangement in all aspects relating to the prices at which products covered by the arrangement have been sold. The following is the form of this monthly affidavit, as shown by the evidence:

"STATEMENT BY

(name of Company)

RELATING TO SALES DURING

(Month)

1. During this month sales by the Company of products covered by the written arrangement dated August 14, 1944, totalled tons, and had a total delivered value of \$.....
2. During this month the Company has observed the terms of the written arrangement dated August 14, 1944, and

the prices determined by Dominion Paperboard Limited on all sales of the products covered by the arrangement.

3. During this month the Company did not dispose of any of the said products except as shown on invoices, credit notes or debit notes, copies of which have been delivered to Dominion Paperboard Limited, and no rebates or commissions, direct or indirect, other than those disclosed by documents delivered to Dominion Paperboard Limited, have been allowed or promised in respect of the said products, and no loans have been made by the Company to or for the benefit of any customer or prospective customer of the said products.

I,, the Company's executive officer in charge of sales, and I,, the of the Company, SEVERALLY MAKE OATH AND SAY:

- (a) I have full knowledge of the Company's affairs and of the facts herein deposed to.
- (b) The foregoing three statements relating to sales made by the Company are true.

SWORN before me at the)
of in the Province)
of, this day)
of, 19)

A Commissioner, etc."

(Exhibit 2-M)

4. Control of Credit Policy through D. P. L.

Almost from the beginning of its operations there has been interchange of credit information between shareholder companies and a common policy with respect to the allowance of credit to box-board customers. Arrangements for this purpose were adopted by resolution at a meeting of the Board of Directors of D. P. L. on February 7, 1945. The procedure adopted was to be carried out by the following steps through W. H. O'Reilly & Company:

1. Each shareholder company shall complete each month a form showing the names and addresses of all persons indebted to such company for goods supplied prior to the first of the month and also amounts of indebtedness incurred in prior months.

2. The information so furnished will be summarized by W. H. O'Reilly & Company who will forward to each company a credit report showing delinquent customers.

3. W. H. O'Reilly will also advise each company of its own accounts listed in the credit report as delinquent and each company shall advise its delinquent accounts that if the account is not paid by the 19th day of the month, future orders will be on a c.o.d. basis.

4. On the 19th day of the month each company will advise W. H. O'Reilly & Company of all delinquent accounts who have failed to pay their indebtedness.

5. On the 20th day of the month W. H. O'Reilly will compile and mail to each company a c.o.d. list and each company will sell such customers on a c.o.d. basis only until such time as the customer's name is removed from the list.

6. W. H. O'Reilly & Company is to be notified as soon as a customer pays up his account and if the customer is not delinquent on accounts owing any other company, a notice is to be sent to all companies.

It is clear from this procedure, which was put into effect, that the credit policy of the individual members of D.P.L. became subject to the common policy adopted.

At the time when Gair and Hinde & Dauch made arrangements to participate in the statistical interchange through D. P. L., the interchange of credit information was also arranged. The evidence indicates that Gair and Hinde & Dauch submit monthly reports on their outstanding accounts and receive a credit report along the lines shown in paragraph 2 above, which gives information by customers but not by supplying companies. This report has the following foot-notes:

"Note accounts marked x are now 'Cash-On-Delivery' and remain so until released

Figures of Gair and Hinde & Dauch who enter statistical interchange only, are included."

(Exhibit 2N)

The evidence does not indicate whether Gair and Hinde & Dauch receive the individual customer reports described above.

However, as it is clear, at the least, that they were informed through the monthly credit report of those accounts which were placed on a c.o.d. basis it is reasonable to assume that members of D. P. L. would expect that they would follow the same policy. Such an inference is supported by the language of the foot-notes quoted above.

CHAPTER X

APPRAISAL OF THE EFFECTS OF D. P. L. ARRANGEMENT

1. Reasons Advanced for Formation of D. P. L.

In an early chapter of this report we quote that portion of the D. P. L. arrangement which is entitled "Necessity for this Arrangement". In this portion it is stated that an agreement, such as the D. P. L. arrangement, is required because "the demand for paperboard varies widely from year to year" and unrestricted competition in matters of price, in a period of low demand, would tend to result in a demoralized industry with detrimental effects on wage rates and the solvency of the paperboard industry.

Mr. R. L. Weldon, President of Bathurst, who took an active part in the formation of D. P. L., testified that his thinking was influenced particularly by the experience of the pulp and paper industry during the depression of the 1930's. Progressive price-cutting, in Mr. Weldon's opinion, was one of the major factors in the situation faced by the pulp and paper industry in that period. He said:

"I suppose that was one of the great contributing factors towards the bankruptcy of the industry. Certainly, for a long time in the depression, there was no element of stability. All I can say is that everything was going from bad to worse, and in business, the businessmen were doing a splendid job of destroying themselves, their employees and most of the people they were concerned with."

(Hearing, pp. 273-74)

By far the greater part of the boxboard produced in Canada is made by companies whose activities extend over various fields of production, among which the production of boxboard may form a relatively small part. It was stated with reference to several members of D. P. L. that the production of boxboard, in recent years, formed less than 10% (in one case less than 3%) of the total tonnage of paper products produced. This raises a very real question as to the validity of the premise which was stated as justification of the D. P. L. agreement, namely that wide variations in the demand for paperboard, in the absence of a price-fixing agreement, tend to create a demoralized industry.

It has already been mentioned that the manufacture of paperboard in Canada, the greater part of which is sold in the domestic market, has long enjoyed substantial tariff protection. This was the

case during the depression years in the 1930's. On the other hand, newsprint, which forms by far the greater part of Canada's production of paper, is largely exported.

From an examination of statistical information relating to the quantities and values of paper production during the early 1930's it would appear that the conditions brought about by the depressed export market for newsprint have been attributed to paper production in general. The following table, derived from production data published by the Dominion Bureau of Statistics, shows the relative scale of production for the paper industry as a whole and for newsprint and paperboard compared with an index of manufacturing generally in Canada during the period 1929 to 1935. The indexes for paper production are based on tonnages produced in each year. The statistics available for this period do not permit a distinction to be made between boxboard and other classes of paperboard.

Indexes of Production

Paper and All Industries, 1929-1935

(1929 = 100)

	I	II	III	IV
<u>Year</u>	<u>Total Paper</u>	<u>Newsprint</u>	<u>Paperboard</u>	<u>All In- dustries</u>
1929	100.0	100.0	100.0	100.0
1930	91.5	91.6	93.3	90.6
1931	81.7	81.7	81.1	78.8
1932	71.6	70.4	83.9	66.7
1933	75.7	74.2	92.8	66.8
1934	96.0	95.6	112.3	78.5
1935	102.6	101.5	125.9	86.7

Based on data from: Dominion Bureau of Statistics, Census of
Pulp and Paper Industry, 1935 (Columns I,
II and III)
Canada Year Book 1951 (Column IV)

It will be seen from the foregoing table that the output of paperboard in Canada did not decline to the same extent as did activity

in manufacturing industries as a whole. It will also be noted that the upturn in paperboard production occurred while the general level of manufacturing showed further decline and that by 1934 the output of paperboard was in excess of the 1929 level.

When a comparison is made on the basis of unit values, the paperboard industry shows a smaller decline than the paper industry as a whole and than the general price level of manufactured goods. In the following table, the indexes of paper products are based upon the average manufacturing value per ton as shown in the D.B.S. Census of Industry reports.

Relative Unit Value of Production of Paper and
Indexes of Wholesale Prices, 1929-1935

(1929 = 100)

Year	<u>Relative Unit Value</u>			<u>Wholesale Prices</u>	
	I Total Paper	II Newsprint	III Paperboard	IV All Commodities	V Fully and Chiefly Manufactured
1929	100.0	100.0	100.0	100.0	100.0
1930	98.1	98.5	96.6	90.6	93.9
1931	91.1	90.4	93.1	75.4	80.4
1932	82.4	80.6	84.7	69.8	75.1
1933	66.2	59.9	84.3	70.2	75.5
1934	65.2	60.2	87.8	74.9	78.9
1935	65.2	60.0	88.3	75.4	78.3

Based on data from: Dominion Bureau of Statistics, Census of Pulp and Paper Industry, 1935 (Columns I, II and III)

Dominion Bureau of Statistics, Statistical Memorandum on Prices, Price Indexes and Other Data, February 9, 1948 (Columns IV and V)

It is evident from these comparisons of the trends during the depression years that the paperboard industry showed greater

stability than the paper industry as a whole and than manufacturing generally. Even if the paperboard industry had experienced a greater degree of instability than has been shown to have been the case this would not, from the viewpoint of the public interest, necessarily make it desirable that a private arrangement should be made among those engaged in manufacturing paperboard to attempt to control prices by a price-fixing agreement. There is a substantial body of economic thought which holds that such restrictive practices, in times of business recession, tend to produce a greater measure of instability than would occur under free market conditions and also to increase the burdens on those engaged in industries in which prices are not so controlled. It must also be borne in mind that maintenance of prices cannot ensure employment and that attempts to hold up prices in the face of declining demand would tend to limit even further the scale of production and, consequently, of employment.

In the report of the Royal Commission on Dominion-Provincial Relations, published in 1940, there is an extended analysis of the incidence of the depression of the 1930's on different groups in Canada. The following extract is taken from this portion of the report:

"On the average, employed wage-earners and persons receiving salaries suffered no reduction in real income. Most of the workers in the skilled trades, the professions and the white-collar occupations who retained their jobs actually enjoyed a considerable improvement in their real position. The losses were completely borne by the 500,000 to 600,000 unemployed who depended on past savings and private or government charity, by the farmers and other primary producers, and by the investors in common stocks, and others who received the profits of industry and trade.

While fixed interest charges and the inflexibility of wages were important factors in the rigid prices and costs which spread the losses of the depression so unequally, they were by no means the only ones. Business organization has everywhere become increasingly monopolistic. In Canada industry, commerce and finance are highly centralized and in many branches a few enterprises dominate the field. Under such conditions the maintenance of prices is possible in the face of declining demands. The monopolistic producers may consider that they are better off by selling less at higher prices than by selling more at lower prices. Consequently, the burden tends to fall upon the workers who lose their jobs through the reduction in output and on the exporters whose costs are thus held rigid while their prices on world markets are sharply reduced.

An important condition of monopolistic practices and of the rigidity of certain prices is the absence of foreign competition. Such competition is limited mainly in two ways:

artificially, by protective tariffs and import regulations; naturally, by the costs of transportation and the necessity for rendering the services or producing the commodities on the spot as in the case of trade, banking, professional services, government services, the production of bread, milk, etc. Industries which are artificially or naturally sheltered, selling only or principally in the domestic market, can adjust their prices to costs, whereas the exporters have to adjust their costs to the prices they can get on the world market. Since the prices of the protected industries determine in part the costs of the exporters, it is clear that the latter are in an unenviable position."(1)

In his evidence before the Commission, R. L. Weldon, President of Bathurst, said that as the end of World War II came to be anticipated he and others in the industry began to fear that the conditions which followed the collapse of inflation after World War I might be repeated. His evidence contained the following:

"A. I should say we were extremely worried about what the postwar conditions would be. There were at that time, if I remember correctly, something like a million or 1, 100, 000 men in the armed services.

There was something over a million employed in what might be called direct munitions, other than auxiliary activities, and all this out of a total working force of around 5 million men. The reconstitution of 2 million men -- I should not have said 'men' because in the case of munitions plants there were a great many female workers and there were also female soldiers in the sense that we had the Wrens and the Wacs and so forth, but the majority of them were men.

We had some experience, too, behind us in the First World War. We lived through a great deal of that personally, so the reactions of that were the ones that were still very vivid in our minds and they tended to create some considerable fears, if you like, of what was to come after the war. If I remember correctly we had a period of what might be almost called wild inflation following the peace in 1918, and that in turn was followed by a very serious slump that commenced towards the end of 1920 and really showed itself in 1921 when unemployment became very rampant.

The inflationary tendencies suddenly disappeared, but nevertheless a certain phase of it carried forward all

(1) Report of the Royal Commission on Dominion-Provincial Relations, Book I, pp. 148-149.

through the twenties. This unemployment situation in 1921 was an extremely serious matter, as also had been the inflationary period just prior to that. We feared a possible repetition. We did not know which way it would go; we were not quite sure where we were going. If the inflationary period had ended suddenly, it could become very serious. One might follow the other, and that could happen because this time the involved picture was of that kind. I might add that many of us in the industry had a very vivid memory of the depression.

. . . .

Prior to the war, you could hardly say we were out of that situation when the war broke out; the memories of those things were very vivid. There is a picture of the atmosphere that moved the people; how and what were we going to do to do a sound job in conversion, and how were we going to keep employment at proper levels. Of course, our desire naturally was to do these things within the legal requirements of the law of the country."

(Hearing, pp. 260-63)

Later in his evidence Mr. Weldon gave the following description of conditions faced by his own company which he felt made it essential to endeavour to achieve some kind of a stabilized market:

"A. . . . I would prefer to think that the commission would accept these remarks particularly as applicable to our own company, rather than speaking completely generally and for everybody, but in a company such as ours, which is integrated, we have some very specific problems to face in the management of such a company.

For instance, if I might try to illustrate what I am thinking of, some time towards the end of July this year, and this is customary every year, we sat down, first of all after a discussion with our salesmen or sales department, with a general picture of what we felt the economic situation might be in the future. We sat down with our woods department managers and set up a budget for our woods operations for the wood which will be delivered to the mill commencing late May 1956, and will be used to operate the company during that period until late May 1957.

In other words, we had to have already made up our minds as to our investment in inventory, our wood supply, and the substantial cost of that wood is known. We have

learned over the years to be able to budget, to know what conditions are, so we know what kind of investment we should make. It is a long pull investment and it has got to be connected with the sale of our product. Obviously, we could have an extremely disturbing situation. In our case we cut and consume, if we are running full, upwards of 300,000 cords of wood a year. This means we were embarking on an investment of \$7 million or \$9 million to maintain the operations of our mill.

I think that is one of the good reasons why it is essential we should endeavour to try to achieve at least some kind of stabilized market because \$7 million or \$9 million is half our working capital. We would not have to lose very much before we would also be in one of those bankruptcy positions referred to."

(Hearing, pp. 264-65)

In the course of his examination Mr. Weldon was asked whether it was intended that D. P. L. should be a temporary measure to cover the decontrol period or a permanent institution. His answer, in part, was as follows:

"A. . . . If obviously, of course, it was clear that there was no necessity for continuing it in the interests of the basic principle of stability, I presume it would have dissolved. But in my opinion for what it is worth, I feel it still has a function, and a useful function towards stabilizing the difficulties that this industry could face.

Q. You are speaking as of 1955?

A. Yes."

(Hearing, p. 272)

Although the Commission can see the reasons which led Mr. Weldon and others in the industry to fear in a very real way a repetition of the conditions which occurred during the depression of 1921 and again in the 1930's, it does not accept, for the reasons already touched on, the conclusion that such conditions could be overcome by a private price-fixing agreement such as that followed under Board Sales and carried on through D. P. L. It is evident that the prosperity of an industry such as the boxboard industry is dependent upon the prosperity of those industries in which packaging materials find their greatest consumption. The prosperity of these industries, in turn, is dependent upon the expansion in general economic activity. To suggest that, in the face of falling demand, the maintenance of prices by private agreement in a particular segment of industry would

tend to maintain employment is to arrive at conclusions which run counter to the actual experience during the periods of depression, as indicated by the quotation given above from the Report of the Royal Commission on Dominion-Provincial Relations.

It may be noted that the decision reached in 1944 to proceed with the D. P. L. arrangement was made before the declaration of policy with respect to employment and income which was announced by the Government of Canada in April, 1945. In this statement, which was presented to Parliament by the Minister of Reconstruction, a major aim of Government policy was stated to be a high and stable level of employment and income.⁽¹⁾

While a failure to anticipate the trends of business activity which have actually followed the end of wartime controls could not be held against businessmen who had had the experience of the conduct of company operations in earlier periods, the statistics of production and shipments of boxboard, given elsewhere in this report, show that the level of activity in the boxboard industry since World War II has tended to reflect the general level of economic activity in Canada.

2. Consideration of Representations as to Reasonableness of Prices

It was argued on behalf of D. P. L. and its members that the prices established under the D. P. L. agreement since decontrol in 1947 had been fair and reasonable and that, with respect to the financial results secured by the manufacturers in their boxboard operations, the question should be: Are they making inordinate profits? In prefacing this part of his argument counsel said:

" . . . it is a very difficult thing to test what has been done in virtue of such an arrangement as the D. P. L. arrangement, by looking at the result. But it can be done. At least you can get an indication."

(Hearing, p. 1468)

A well-qualified chartered accountant, G. M. Smith, C.A., a partner of the firm of P. S. Ross and Sons, who had been instructed on behalf of D. P. L. to make an accounting examination of the boxboard operations of six of the twelve shareholding companies, was

(1) Employment and Income with Special Reference to the Initial Period of Reconstruction - Presented to Parliament by the Minister of Reconstruction, April 1945 (King's Printer, Ottawa, 1945).

called as a witness on behalf of D. P. L. members. Mr. Smith submitted statements of the results of his examination of the records of the six manufacturing companies with respect to their boxboard operations. These statements varied to some extent from one company to another, depending on the nature of the operating records of the respective companies, but generally, the data covered the years 1944 to 1954 inclusive, and related to total manufacturing costs in comparison with sales income and the manufacturing and operating margins on this basis.

It was stated in evidence that the figures used for the special statements for boxboard operations had been checked with the operating and financial records maintained by each company and the accountants were satisfied that the data presented tied in accurately with the published financial statements of the company. This was the case for all companies but one as in one instance only figures for individual products were available in the company's records.

The Commission was requested to regard the statements of financial results so presented on a confidential basis and not to refer to the figures in such a way as to identify them with an individual manufacturer. The breakdown of the summary cost totals which were included in the statements submitted by G. M. Smith was not put in evidence before the Commission and the Commission did not undertake an accounting examination of its own. In the opinion of the Commission we would not be justified in attempting to make an appraisal of the effects of the practices engaged in by manufacturers of boxboard through the D. P. L. arrangement by means of an accounting examination of the costs and profitability of what was, in the case of most manufacturers, only one part of varied operations in the production of forest products.

It was argued by counsel that the figures presented by the chartered accountant showed that the range of profit in the case of the companies analyzed had not increased over that secured under the price ceilings authorized by the W.P.T.B. and that in some cases very low profits or even losses were shown. It was pointed out by counsel that the relative level of profit varied among the companies examined and the statements also show that the manufacturing and operating margins, on the accounting basis employed, varied from one year to another for the same company, in some cases, very considerably.

Statements for four of the companies examined give figures of manufacturing and other costs for boxboard operations as a whole, from which it is possible to calculate indexes of total manufacturing costs, taking the year 1947 as a base. These indexes may then be placed beside the indexes of schedule prices of D. P. L. and average prices of boxboard as presented in Dominion Paperboard Limited Statistics (Exhibit H-18) to indicate the relative trends in each series.

The index of schedule prices of D. P. L. is based upon the prices established from time to time and changes only when there is a change in the schedules. The index of boxboard prices, on the other hand, is based upon the tonnage sold each month and the sales revenue therefrom and varies according to the unit value of board sold.

Indexes of D.P.L. Schedule Prices, Average Prices of
Boxboard and Total Manufacturing Costs, 1947-1954

(1947 = 100)

	I	II	III	IV	V	VI
	Index of Schedule Prices of D. P. L.	Index of Average Prices of Boxboard	Total Manufacturing Costs			
Year			Company A	Company B	Company C	Company D
1947	100.0	100.0	100.0	100.0	100.0	100.0
1948	115.0	114.9	111.3	107.4	115.7	118.7
1949	118.2	118.7	116.6	107.8	125.0	122.5
1950	112.0	124.1	113.7	113.7	118.4	122.6
1951	145.8	146.8	140.3	133.7	127.7	140.0
1952	153.1	154.0	164.8	137.0	145.1	156.6
1953	154.0	155.6	158.3	139.3	156.3	152.6
1954	160.7	163.5	162.1	141.5	150.3	158.5

Based on data from: Exhibit H-18, D.P.L. Statistics, 1945-1954
(Columns I and II)
Exhibits H-30, H-31, H-32, H-35 (Columns
III, IV, V and VI)

Note: In Exhibit H-18 indexes of boxboard (schedule) prices and average prices of boxboard are shown on the basis of 1935-39 = 100. In the above table the average monthly figures for the year 1947, as shown in the tables in Exhibit H-18, have been taken as 100.

It will be seen from the foregoing table that total manufacturing costs, as presented, did not change to the same extent or, in some instances, even in the same direction in different periods among the selected companies. In some years, some companies show

an increase in costs while other companies show a decrease. It will also be noted that the indexes of schedule prices and average prices of boxboard move consistently upward, and that while the trend of manufacturing costs is generally upward there are periods when several companies show little change in total manufacturing costs or even reductions.

This same tendency for boxboard prices and values to move upward when other series have moved downward is reflected in the following table, which shows the two boxboard indexes and the indexes for general wholesale prices and wood-pulp prices as published by D.B.S.

General Wholesale Price Index, Wood-Pulp Price Index,
D.P.L. Schedule Price Index and Index of Average
Prices of Boxboard, 1947-1954

(1935-39 = 100)				
	I	II	III	IV
Year	General Wholesale Prices	Wood-Pulp Prices	Index of Schedule Prices of D. P. L.	Index of Average Prices of Boxboard
1947	163.6	209.5	148.86	157.78
1948	193.9	232.7	171.16	181.30
1949	198.9	194.1	175.97	187.27
1950	211.2	195.1	181.60	195.74
1951	240.2	249.7	217.07	231.63
1952	226.0	228.0	227.77	243.02
1953	220.7	206.7	229.20	245.53
1954	217.0	201.3	239.23	257.97

Based on data from: Dominion Bureau of Statistics (Columns I and II) Exhibit H-18 - D.P.L. Statistics, 1945-1954 (Columns III and IV)

The accounting analysis for one of the two other companies did not relate to over-all boxboard operations but only to four individual grades of boxboard and gave costs as at the times of price changes

made by D. P. L. An examination of the statement for this company reveals that at the time of the price advance in November, 1950, the costs of production for three of the four grades were lower than at the time of the previous price change in May, 1950, and in the case of the fourth grade, costs had increased by less than one per cent. In the case of the other company, its boxboard operations were carried on only in the later years of the period surveyed for the other companies. The figures presented for this company with the shorter period of operations showed total manufacturing costs declining in 1953 and 1954 as compared with 1952.

The Statement of Evidence contained comparisons of statistical series based on D. P. L. price schedules and U. S. Government price statistics for similar types of paperboard. As will be mentioned later, it was argued on behalf of D. P. L. that direct price comparisons cannot be made because of differences in the qualities of Canadian and U. S. board. The reference here to the statistical series cited by the Director is not for the purpose of comparing directly the prices of paperboard in the United States and Canada but to see whether the tendency in the prices set by D. P. L. to remain stable when other prices have moved downward is further reflected in comparisons with price movements in the United States. This appears to be the case. In the years from 1947 to 1953, inclusive, there have been two periods, 1949 and 1952, when prices of some classes of boxboard in the United States moved downward. These periods of decline are reflected in the price series for wood-pulp set out in the table above, but as already mentioned, there have been no downward movements at any time in the prices fixed by D. P. L.⁽¹⁾

An examination of the minutes of D. P. L. indicates a number of occasions when there have been discussions of increased costs and their relationship to selling prices. References to reports of some of these discussions have been made earlier in this report. The minutes of D. P. L., however, contain no mention of any occasions on which there have been discussions of reductions in costs and yet, as has been seen, these have occurred at some points in the years following decontrol. This aspect is not mentioned as a reflection, in any way, on the argument advanced on behalf of D. P. L. members that they acted with restraint when they reached a decision that an increase in price was necessary. It does raise a question, however, whether in

(1) It will be noted from the preceding table that the price index of wood-pulp showed a further decline in 1954 and price data contained in Exhibit H-24, Paperboard Industry Statistics, National Paperboard Association, show declines in prices of certain lines of boxboard in the New York market area during this period. It should also be mentioned that during periods of price increases in the United States, particularly in 1950, advances occurred more rapidly than in Canada.

the absence of competition in price members of an industry are under the same compulsion to reduce prices when cost or market situations, in the absence of common price arrangements, would lead to some adjustment. This feature points to the real danger of the entrance of the element of arbitrariness into the maintenance of prices under private agreement, and to the desirability of ensuring that the public safeguard in a responsive free market is not removed by arrangements which put decisions as to prices into the hands of a group acting in its own interests.

The jealousy with which details as to actual costs of manufacturing various grades of boxboard by individual companies are regarded makes clear that prices, as fixed by D. P. L., were not based, grade by grade, upon a detailed examination of individual costs of production. It was suggested in argument that the views of the "low-man" tended to prevail when decisions as to prices were taken in D. P. L. but the minutes do not give any indication that the schedule of prices was established by reference to the lowest cost of producing each grade of board. Even with the incomplete picture of cost variations shown in the accounting information given to the Commission, it is evident that the reconciliation of cost figures as a basis for the determination of prices would have presented formidable, if not insurmountable, obstacles. Such a means of price determination, if it were acceptable as a principle and could be achieved, would result in an industry being regulated in a direct and far-reaching fashion. Such regulation would involve the establishment of the appropriate amount of capital investment in each company for the manufacture of the particular product, the measurement of the relative efficiency with which the capital goods were employed in each company and detailed examination of the nature of the expenses incurred by each company.

Even if costs under the most efficient means of operation could be satisfactorily determined it would remain to establish the rate of return on capital investment which would be necessary to obtain the desired level of output, which would also have to be regulated. It is obvious that such far-reaching control could not be left in private hands without supervision by some public authority. We do not see that regulation of industry in this fashion would produce the economic benefits which result from the self-regulating forces of a free market, and the evidence put before us in this inquiry does not persuade us that under present conditions there is possibility of industrial disturbances of such magnitude as would warrant consideration of industrial regulation of such a character.

Reference has been made in the preceding section of this chapter to the evidence relating to the fears which were stated to be held by executives in the boxboard industry, and in other branches of industry as well, that conditions following the close of World War II might take the course which followed the end of World War I. The earlier events were referred to in the following passage in the White

Paper on Employment and Income (1945):

"The most severe inflationary pressure came immediately after the war of 1914-18 and not during it. The rise in prices after the last war was extremely sharp and this unfortunate inflation undoubtedly greatly accentuated the violent slump in prices which followed. The Government is determined to safeguard the stabilization program until its full benefits can be reaped in a smoother, more rapid transition to a prosperous peacetime economy. The stabilization program is a vital factor in maintaining the highest feasible level of employment during the transition, both in the negative sense that it can prevent inflation with its inevitable deflationary consequences, and in the positive sense that prices must be kept at reasonable levels if a high volume of post-war production is to be achieved. High post-war employment can be based only on high production and an absolute essential in achieving this objective is to keep prices in hand during the transition. Canada's dependence on exports gives special emphasis to this need, both because of the obvious necessity of competing in external markets and because of the dependence of large sections of the domestic market on export income."

While, as already mentioned, this statement of government policy was issued after the D. P. L. agreement had been made, the main aspects relating to the need for orderly conversion from war-time to peacetime operations and the desire of the government to see prices kept at reasonable levels during the conversion period, had long been recognized and, of course, continued to be emphasized in subsequent years. It is evident from the testimony of Mr. Weldon, quoted earlier in this chapter, and from the letter of June 19, 1944 (Serials 2206-07) written by P. H. Scowen of Brompton that a prime concern of those who assisted in the formation of D. P. L. was the danger that prices might fall drastically if there was a period of uncontrolled inflation after the war, and it was against this danger with respect to the immediate post-war period that D. P. L. was seen as a safeguard. At the same time it is also evident that the members of the boxboard industry felt that the D. P. L. agreement would assist in the orderly reconversion from war to peace. Without in any way singling out the boxboard industry the comment may be made that there exists an unavoidable tendency for most groups to identify their particular interests with those of the community at large. In the opinion of R. M. Fowler, President of C.P.P.A, the D. P. L. arrangement had a restraining influence on the advance in the prices of paperboard which had been of benefit to the public in view of the inflationary tendencies which have operated in the post-war period. He expressed his general view as follows:

"I do not believe that this process of group discussion on prices by an industry that I believe is a responsible one and that

was anxious to comply with a government policy which was quite clearly declared to them, that the process of discussion ended in a lower level of prices than would have taken place if there had not been the Dominion Paperboard Limited and if there had not been these meetings and discussions."

(Hearings, pp. 239-40)

When asked to explain why he believed the system of group discussion would operate more effectively than independent decision Mr. Fowler gave the following testimony:

"Q. You are suggesting that the process of discussion has a greater restraining influence than the market itself?

A. I think you are getting into economic theory which you know and which I don't know, Mr. Whiteley, but I think that what I gather you are putting to me is that the same kind of general action would take place without agreement by the ordinary operation of the market and that, instead of having discussions and restraint exercised by individual people in discussion on prices, the restraint would be exercised later that way. If a man went a bit unreasonable and somebody else would tend not to follow him, he would have to pull back.

Well, I think that might happen, but I think what happens in this case is that people are human and if company A advances its price and at a time of very high demand, company B might not, if he had a chance to talk it over, be very keen about it, think it was a mistake and say it was a mistake. If the price is there and the market is there, the human tendency for company B is that he will follow company A. In other words, I think that the responsible discussion of prices is, in this kind of business atmosphere, actually more effectively restraining than the operation of the market.

Q. I presume you would follow the same logic in a period when declines in prices are current?

A. I think so. I am quite certain that the effect -- when I say quite certain I think you cannot be certain of any of these things -- I think the fact that Dominion Paperboard agreement is preventing prices from rising too high or higher than they actually would go, and probably in periods of depression to prevent prices falling as low as they would otherwise go.

Q. Take the other situation of declining prices, except depression?

A. I am taking the extreme case, but I think the same thing happens. There is certainly a restraint on movement in both directions.

Q. You believe on the whole that the advantage the public gains from the restraint in periods of severe inflation offsets any disadvantages they might gain from the failure to get prices lowered as rapidly as they might in the open market?

A. I think so, sir, particularly for the type of commodity which I mention, paperboard and newsprint, which are of the service type commodity. I do not know the others so well. I think there is a difference, and I think there is a difference in an industry where you are dealing with a very high capital investment and where if you assume, as we all do, that this is an expanding and developing country, you are going to need the productive capacity in existence. In other words, the old classical theory of driving out the weak members in a time of depression is not good for an industry of this kind which is going to be needed if we are right in our assumption that Canada is growing."

(Hearing, pp. 241-43)

Mr. Fowler did not refer the Commission to any specific evidence to illustrate these hypotheses and, indeed, it is clear that Mr. Fowler intended his statements to express his opinion as to the factors which influence business action in the paper industry rather than to be an actual review of the changes from time to time in the prices fixed by D. P. L. He also made clear that he knew of no way of establishing what would have been the actual situation if there had been no agreement among D. P. L. members. There was no suggestion that the willingness of D. P. L. members to exercise what they regarded as restraint in making price advances in keeping with what they considered a reasonable basis was dependent upon having a price agreement and no question was raised about the attitude of those members of the industry who had not become members of D. P. L.

In the absence of any direct means of establishing what level of boxboard prices might exist if conditions had been different it is necessary to rely on general considerations. It will be noted from the excerpt from the White Paper on Employment and Income, quoted above, that great stress was laid on high production. In other parts of the White Paper emphasis was given to the securing of "a higher degree of productive efficiency" and "passing on to the consumers and other purchasers in the form of lower prices the savings thus made". It is obvious that the essential purpose of a price-fixing agreement among

competitors is to ensure that prices will not be lower than those fixed under the agreement. The agreement, if it is relied upon, produces a greater feeling of security among competitors than would otherwise exist. This gives rise to an immediate question whether security realized through such means is likely to diminish or increase that striving for higher efficiency which will assist the greater production and result in the possibility of savings being passed on to customers. It is difficult to escape the conclusion that if protection is carried to the extent afforded by a price-fixing agreement there will be a danger of some falling off in the drive for the greatest efficiency which could be expected if competitors were always under pressure to meet the situation created by the most enterprising and efficient rival.

It can hardly be denied that the determination of prices by discussion among an interested group, by affording a greater degree of security than would prevail if prices were determined independently, might lead in the end to larger advances being made in prices than if such assurance was not available. There must also be a tendency for considerations of cost, as seen by each participant, to come to bear collectively on the determination of prices and this factor, in turn, to reflect adversely on that striving for efficiency previously mentioned.

When the evidence as a whole is reviewed in the light of these factors some tentative conclusions may be drawn. It would appear that under the conditions prevailing with the D. P. L. arrangement there may have been some tendency, during periods when prices were moving upwards, for advances to be made in less rapid manner than might otherwise have been the case. It cannot be shown that the level of prices eventually reached was lower than it would have been otherwise and, in fact, whatever indications may be found in the scanty data available suggest, if anything, the opposite conclusion.

The available information regarding price movements in similar industries in the United States indicates that increases in the prices fixed by D. P. L. tended to lag behind price increases in the United States but that the slower advances in price made by D. P. L. tended in the end to go beyond the level in the United States. In addition, however, prices in the United States have shown downward movements which have not been reflected in the prices fixed by D. P. L. (A chart prepared by the Director showing price movements in the United States and Canada of two grades of paperboard will be found in Appendix D). Mr. Fowler expressed the view that the D. P. L. agreement would have a restraining influence on both the upward and downward movement of prices. The evidence establishes that up to the time of the hearing there had been no reduction in D. P. L. prices although, as already mentioned, there have been reductions at times in the prices of the products of similar industries in the United States and of related industries in Canada as well as in the general price level.

3. Standardization of Products

The establishment of standards of quality for most of the principal lines of boxboard had been a feature in the operations of Board Sales and the practice was continued in the operations of D.P.L. It is necessary to keep in mind that the standards of quality so established were fixed as maximum standards and were not in the nature of minimum standards, such as those which are established for certain kinds of consumer and other goods in order to ensure minimum standards of performance or quality from products labelled in accordance with the standard.

When direct competition through price is foreclosed by a price-fixing agreement of the nature of the D. P. L. arrangement there would still be opportunity for indirect price competition if each of those in the agreement was free to improve the quality of his product and offer it to purchasers at the common price established under the agreement. This would be tantamount to a reduction in price and would thus serve to defeat the purpose of the agreement. It is thus seen that the effect of the price-fixing agreement when supported by the establishment of standards of maximum quality is to reduce further possible competition among the participants in the arrangement and to limit the alternatives in terms of either price or quality open to the public as purchasers.

At this point it is necessary to refer to classes of boxboard regarded as specialties and which were not subject to the same arrangements with respect to common prices and standards of quality. It is obvious, of course, that if mere changes in quality could remove a product from one of the recognized grades and place it in the class with specialties the whole purpose of the establishment of standards by D. P. L. would be nullified. The minutes of D. P. L. make clear that the practice has been for the inclusion of grades as specialties to be considered by the Board of Directors and for approval to be given before a board is classed as a specialty. On occasion such approval has been withheld.

There is another aspect of the maintenance of standards of maximum quality as part of a price-fixing agreement which has detrimental features from the viewpoint of the public interest but which may not be as readily apparent as those related to the aspect discussed above. It is apparent that when a manufacturer is prevented by agreement from offering any advantage in price to his customers he will endeavour to ensure that the quality of his product is kept up to the maximum quality permitted and that he offer the customer whatever advantage he can by way of service and so on. Competition in these directions, when prices are controlled by agreement, may result in higher costs than are actually required to meet the real needs of the purchaser. The representative of one manufacturer who appeared

before the Commission pointed out that his company, whose mill is situated a considerable distance from the main consuming centres for boxboard, had been forced to adopt the more expensive means of delivery by motor trucks in order to compete with other mills which supplied their customers in this way. He considered that he had no alternative but to adopt truck shipments in the face of the greater advantage which could be offered by other manufacturers if his company persisted in the slower, but less costly, method of delivery by rail. In the circumstances of an agreement requiring common prices such a result must necessarily follow but it indicates that expenses may be increased and subsequently reflected in prices without the purchaser being offered an alternative of lower prices and less costly service. If buyers had the choice between paying a higher price for frequent and fast delivery of goods and a lower price for less frequent and slower delivery there might be those who would be prepared to conduct their operations so as to have the advantage of a lower price. While reference has been made to the matter of means of delivery because this was cited to the Commission, generally there would appear to be a tendency for costs to be increased in other ways because of the emphasis on service in the absence of competition in price.

The competitive necessity for a manufacturer to keep the quality of his product up to the standard permitted under the price-fixing arrangement may result in more costly products being produced than are required for all purposes. Such a development would be particularly significant for a product such as boxboard which is used so largely for packages. The principal purpose of the latter is the containing of goods and they have served their purpose once the goods are removed. From the viewpoint of the ultimate user of the packaged goods, the less costly the container, provided it serves as an adequate package, the more value in terms of the desired goods he secures with each purchase. If quality of boxboard is kept higher than necessary, thus increasing its cost, the public suffers by having to pay for a more expensive package than is required. The fact that the cost of packaging may be hidden in the final price paid by the consumer does not remove the effect of the increased costs.

The evidence of some witnesses who appeared before the Commission was to the effect that the quality of some grades of boxboard produced in the United States was inferior to the quality of standard grades in Canada of the same types. From this it was argued on behalf of D. P. L. and its members that price comparisons could not be made between grades bearing the same name in Canada and the United States because they were not the same products. This argument, however, does not deal with what may be a very significant effect of such differences in quality. If the Canadian grades are of higher quality, and it was argued that this necessarily resulted in higher costs, is such higher quality necessary to provide a satisfactory packaging material? It is obvious that packaging has been developed very extensively in the United States. In fact, many of the

developments in this field which have been followed in other countries have had their origin in the United States. It is to be expected, therefore, that qualities of paperboard which have been developed in the United States for packaging purposes would be of a nature to serve adequately for such purposes but not to involve higher costs than are necessary to produce a satisfactory board. If, on the other hand, due to the effect of the arrangements which have been made through D.P.L. for the maintenance of prices and standards of boxboard, qualities of board in Canada have been kept higher than are needed for packaging purposes, this has been to the disadvantage of the public. It is the conclusion of the Commission that in the circumstances disclosed in this inquiry such a danger cannot be disregarded even though its full effects could not be traced through the multitude of uses to which boxboard and products made from it are put. This conclusion is reflected in the analysis made by W. H. O'Reilly at the time of the Container Materials case in 1939, when he was considering the situation which might result if the restrictive arrangements then operative were abandoned. He wrote:

"With no agreement on price and with no agreement on grades we may anticipate a transitional period in which prices and grades will fluctuate perhaps violently. At the end of that transitional period, however, the Industry should have a price list which really means something instead of the forced arrangement of prices that we have at the moment. The Industry should also be supplying grades extremely suitable to the uses to which they are put and these would be supplied, of course, at the lowest possible cost to the consumer. The lowest possible cost will undoubtedly prove to be that at which the most efficient mill can make a satisfactory profit. There will, therefore, be a constant incentive for mills to increase their efficiency, with corresponding benefits to the Industry as a whole."

(Serial 2156)

4. D. P. L. Arrangements for Interchange of Statistics

The operations of D. P. L. with respect to the exchange of industry statistics and credit information must be considered in relation to the operations of the D. P. L. arrangement as a whole. The provisions for the conduct of such activities form an integral part of the arrangement and, except for the special positions given to Gair and Hinde & Dauch, the activities in regard to the exchange of statistics and credit information were carried on in the general operations of D. P. L.

It was alleged by the Director that the collection, distribution and discussion of statistics of production and sales were intended

to and did result in a system of market allocation being followed by those companies engaging in the exchange of statistics. It was further alleged by the Director that the tables compiled by D. P. L. showing the proportion of total shipments attributable to each manufacturer supported this allegation. It was not alleged by the Director that market shares remained unchanged or that there was allocation with respect to the various classes of boxboard. His allegations were that, although there might be divergent changes in the proportions of individual classes of boxboard for the same company, the proportions for all classes of boxboard taken together reflected a deliberate policy and that, from time to time, decisions were made as to a new distribution of market shares. The Director pointed to the proportionate figures shown in D. P. L. compilations for Pulp Mills as a group and Waste Mills as a group, as indicating the periods when such changes were made. The Director relied on figures compiled by D. P. L. for the years 1944-53 inclusive. These are shown in a table in an appendix to this report which also includes figures for the year 1954, which were contained in a later exhibit (H-18) filed with the Commission.

An examination of the percentage figures for individual companies relating to the total domestic shipments of boxboard, which can be readily made from the table, shows between some years a high degree of stability in the relative company positions even though there are significant changes in tonnage totals. However, unless such figures, by themselves, showed an unmistakable pattern of market sharing there might be other factors which would tend toward relative stability without any system of market allocation being involved. The Commission has not been able to find in the percentage figures relied on by the Director a pattern of distribution which would justify a conclusion that the figures, taken by themselves, must be interpreted as proof of market allocation.

It was denied on behalf of all manufacturers participating in the exchange of statistical information that there has been any understanding or arrangement among them as to market sharing. The D. P. L. arrangement, which claims on its face to be the full and exact measure of the business arrangement between the signatory companies, contains a provision that "Each manufacturer may sell as much or as little of the products covered by this arrangement as he may decide or for which he can find a market" (Serial 2215).

The fact remains that in the compilation of statistics by D. P. L. and in the discussion of them at D. P. L. and Board Section meetings, attention has been given consistently over the years to the market position of each manufacturer participating in the statistical interchange. It is necessary, therefore, to seek an explanation of the continued scrutiny of individual market positions.

It has been pointed out in an earlier chapter of this report that the individual manufacturer does not need to know the position of

each other manufacturer in order to determine his own position. If a manufacturer is given the total market figures for those classes of products which he produces, he can readily work out the percentage attributable to his own operations as he already has the figures for his own company. If he is provided with individual figures for each other manufacturer it must be for some purpose other than to keep track of his own position in relation to the industry as a whole.

Mention has already been made of the fact that boxboard manufacturers tend to guard their individual cost figures very jealously from a competitive viewpoint. The fact that they have been prepared, over the years, to disclose to their fellow manufacturers details of their production and shipments must be taken as indicative that they regard such details in a less vigorous competitive manner.

In considering the purpose for which statistics of individual companies have been exchanged, attention should be given to indications in the evidence as to the value attached to such interchange and the functions which it could serve. As a result of the Container Materials case, in which some members of Board Sales were involved, W. H. O'Reilly reviewed at the time the functions of Board Sales and made comments on the purposes they served. Mr. O'Reilly as Secretary-Treasurer of Board Sales, had an intimate knowledge of its operations and was the person best able, perhaps, to appraise the nature of its functions. Subsequently, he occupied a similar position with respect to D. P. L. In a memorandum prepared in 1939, W. H. O'Reilly wrote:

"Our main functions, and the only functions to which objection might be taken, have been agreement on price, terms and grades. Our secondary functions have been the collection and dissemination of credit information, weekly operating statistics and general information for the benefit of the Industry.

These secondary functions seem to have been of great value to the Industry. The interchange of credit information has, we are informed, been of inestimable value to the credit departments of the companies. The weekly operating statistics have given each Manufacturer a complete picture of the entire Industry and his place in it, and have done a great deal to allay suspicion that certain mills were obtaining a far greater share of the market than would seem to be their due on past records."

(Serial 2167)

The same memorandum also contains the following:

"The National Paperboard Association [of the United States] follows the so-called 'Production Technique'. It is based on the theory that orderly marketing and fair prices will prevail if

complete data on production is available and each member holds within his historical place in the Industry. It is an offshoot of the 'Stevenson Technique'. The Association has a wealth of complete statistical data. It receives from its members weekly information on production, orders received by grades, raw material inventories, etc., which are compiled and distributed to the members on Wednesday of each week. Mill reports are checked by travelling auditors once every four weeks. Fortnightly meetings of executives are held, at which statistics are reviewed and interpreted. The price structure is never discussed either formally or informally but frequent forecasts of expected business are made. These forecasts enable individual manufacturers to voluntarily hold their sales efforts within the forecast thereby trying to avoid dislocation of the market. However, as all manufacturers do not at any time co-operate to the fullest possible extent, the efforts are in a constant state of flux."

(Serial 2169)

It will be noted that in dealing with Board Sales and also with the National Paperboard Association, Mr. O'Reilly put emphasis on the value of statistics in establishing and maintaining confidence that historical market positions were being maintained and that the market was not being dislocated. From this evidence the Commission concludes that the determination of market position was a principal purpose for which the interchange of statistics was employed. Inasmuch as the statistical activities of D. P. L. were much the same as those of Board Sales it is reasonable to infer that the purpose was the same in both cases.

That arrangements for statistical interchange could accomplish more than the mere provision of information is indicated in the memorandum which Charles E. Frohman of Hinde & Dauch prepared as a record of the discussions prior to the formation of D.P.L. in 1944. It will be recalled that copies of this memorandum were found in the files of D. P. L., Gair and Bathurst. In this memorandum Mr. Frohman wrote:

"I expressed the thought that everything that the group desired could be accomplished by a statistical association, that if it was desirable or necessary to fix prices, the parties had the opportunity to get together, and that the principal thing was the opportunity for meeting, and the presentation of complete statistics for the consideration of intelligent operators."

(Serial 2201)

Apart from the matter of fixing prices, mentioned in this excerpt, it is evident that Mr. Frohman was of the opinion that the

objectives sought by the group could be accomplished in large measure by the consideration of complete statistics at meetings. Mr. O'Reilly's memorandum quoted above makes clear that one of the objectives has been the maintenance of stability in the relative market position of each manufacturer.

Consideration must also be given to the fact that the D. P. L. arrangement removed the competitive possibilities otherwise available to its members to seek to enlarge their business through price or grade quality differences. The elimination of these substantial factors must in itself be conducive toward greater stability in market positions than would be the case under more competitive conditions where individual manufacturers would be free to offer a wider range of choices to customers.

It is the opinion of the Commission that the interchange of individual company statistics was regarded as auxiliary to the price-fixing provisions of the D. P. L. arrangement. One of the functions of such statistical interchange was to maintain satisfaction among the members as to the amount of business each was getting in relation to the others when operating under the conditions as to common prices, terms of sale and grades required under the D. P. L. arrangement. The evidence does not establish to the satisfaction of the Commission that the result was the same as that which would be produced by a formal quota arrangement, but the Commission is of the opinion that the tendency of the continued attention which was given to the market positions of individual companies in the context of the restrictive practices followed under the D. P. L. arrangement would be in the direction of maintaining stability in their respective market shares.

5. Appraisal of D. P. L. Arrangement in Relation to Board Sales

The evidence in the proceedings in this inquiry makes abundantly clear that the investigation under the Combines Investigation Act into the paperboard shipping container industry and the supply of shipping case materials, and the later prosecution and conviction of the parties to restrictive arrangements in those fields, gave rise to very serious question in the minds of those participating in the Board Sales agreement as to the legality of the latter. This led eventually to a decision on the part of those concerned that the position of the Board Sales agreement in the light of the Container Materials case was of such doubtful validity that it should be abandoned. While this action was taken the abandoned agreement was replaced immediately by the D. P. L. arrangement.

In evidence and argument submitted to the Commission on behalf of D. P. L. and its members, two main differences between

Board Sales and D. P. L. were stressed. These were that the Board Sales agreement had the "facade of a fictitious sale and agency relationship" and that there were provisions in the Board Sales agreement for substantial deposits which were subject to forfeiture in the event of an individual mill not complying with the arrangement. These features are not contained in the D. P. L. arrangement. It is obvious, however, that these are aspects of form or method, they do not necessarily affect the essential purpose or objectives of the arrangement. The essential features of the Board Sales agreement are clearly described in one of the parts of W. H. O'Reilly's memorandum, quoted earlier in this chapter, as follows:

"Our main functions, and the only functions to which objection might be taken, have been agreement on price, terms and grades."

(Serial 2167)

These have also been the main functions of D. P. L. and the agreement of 1944, itself, makes clear that they were intended to be. Mr. O'Reilly in evidence given in the inquiry stated that the nature of the operations of Board Sales was "very much those of Dominion Paperboard Limited" (Evidence, p. 162).

In the face of the fact that D. P. L. had as its objective the same purpose that had been served by Board Sales it seems surprising to the Commission that having decided to get rid of Board Sales because of its doubtful legal aspects the large majority of the participants, without interruption, entered into a new arrangement with the same essential purpose and functions. The courts which rendered judgment in the Container Materials case stated quite clearly the basis on which their decisions were reached both at the trial and on appeal. The Chief Justice of Canada stated in the final judgment:

"The enactment before us, I have no doubt, was passed for the protection of the specific public interest in free competition. That, in effect, I think, is the view expressed in *Weidman v. Shragge* in the judgements, of the learned Chief Justice, of Mr. Justice Idington and Mr. Justice Anglin, as well as by myself. This protection is afforded by stamping with illegality agreements which, when carried into effect, prevent or lessen competition unduly and making such agreements punishable offences; and, as the enactment is aimed at protecting the public interest in free competition, it is from that point of view that the question must be considered whether or not the prevention or lessening agreed upon will be undue."⁽¹⁾

In his judgment in the same case, Mr. Justice Kerwin, now Chief Justice, stated:

(1) (1942) 1 D.L.R. 533

"Under the decision in the Stinson-Reeb case, the public is entitled to the benefit of free competition except in so far as it may be interfered with by valid legislation, and any party to an arrangement, the direct object of which is to impose improper, inordinate, excessive or oppressive restrictions upon that competition, is guilty of an offence."(1)

It is the case that legal advice was sought and obtained from a number of lawyers by executives of boxboard companies and that the decision to proceed with the D. P. L. arrangement was made in the light of such advice. It will be apparent from the correspondence with legal advisers quoted earlier in this report that those considering entering into the D. P. L. arrangement could not be given assurance that the arrangement would be free from question under Canadian legislation dealing with undue restraints of trade. In view of the fact that the D. P. L. arrangement was to replace an existing arrangement in the same field there is a noteworthy absence, in the legal opinions put before the Commission, of any appraisal of fundamental changes which the new agreement would produce in relation to its impact upon competitive relationships among the participating companies, which had been the essential element considered in the Container Materials case. It may be that the legal advisers did not consider that this was within their terms of reference but the absence of such an appraisal gives the opinions an aspect of unreality in relation to the effect of the proposed agreement on the competitive situation which was the essence of the matter. At the same time it must be borne in mind that those who were in the best position to appraise the competitive effects of the restrictive practices under Board Sales and the competitive effects which could be expected under the D. P. L. arrangement were the company executives whose policies would be formed in the light of the arrangement. From this point of view it may be that, in some cases, they did not fully instruct their legal advisers as to the restrictive effects on competition which the Board Sales agreement made possible and which would be continued in large measure, inasmuch as D. P. L. would permit the main functions of Board Sales to be carried on in a less drastic form. There is, perhaps, more than a clue to this apparent detachment of consideration of the Board Sales and D. P. L. arrangements from the viewpoint of similarity of objective and effects in the Bathurst memorandum regarding the manner in which legal opinion would be requested. This memorandum, which has already been quoted in an earlier chapter, reads as follows:

"G T C

MEMORANDUM

In requesting opinion from our Attorneys with regard to new Board Group Agreement we intend to pass this to our Attorney advising him -

(1) (1942) 1 D.L.R. 539

1. That we are desirous of entering into such an agreement as this with the other members of the Industry.
2. It is our desire to have him examine this agreement with regard to -
 - (a) Offering any further suggestions which might improve the agreement.
 - (b) Give us a legal opinion as to the degree of business risk involved in signing this agreement.

all with the idea tho' that we want to do this not that we want him to merely tear it to pieces.

RLW -
Apr. 4/44."

"G T C

This is a note for your policy re 'special meeting - special committee tomorrow'. You know how to handle same.

W."

(Serial 14616)

In the opinion of the Commission there is no question that the participants in Board Sales who became members of D. P. L. desired to secure the same effects through the new arrangement as were sought under the Board Sales agreement and they were prepared to accept what one company referred to as "a reasonable business risk" (Serial 14634) in order to pursue the same general objectives. It cannot be said that the subsequent refusal of Gair and Hinde & Dauch to become shareholding members in D. P. L. in any way affects this conclusion, because in the original draft of the D. P. L. arrangement the inclusion of all members of Board Sales was contemplated.

The nature of the legal advice on which the executives of boxboard companies relied in deciding to proceed with the D. P. L. arrangement has been made clear in the correspondence set out fully in earlier sections. The weight of this advice was definitely that the D. P. L. arrangement as drafted constituted a reasonable form of trade association activity which, if carried out on the basis provided in the arrangement, could be defended as in the interests not only of the parties themselves but of the public generally. It is clear that clients and counsel were directing their attention not so much to the degree of interference with competitive relationships as to the element of specific injury or damage to the public interest and the need of avoiding actions which might include such elements. While the

Commission has already indicated the grounds on which it believes the public interest should be appraised, it is the case that before entering the D. P. L. arrangement the member corporations had received advice which, although qualified, they considered justified their action from a legal point of view.

6. Position of Gair and Hinde & Dauch

The evidence is clear that Gair and Hinde & Dauch were not, at any time, shareholding members of D. P. L. and, while allegations were made on the basis of recorded times of meetings of the Board Section of C. P. P. A. and D. P. L. that it would have been possible for their representatives to have participated in D. P. L. discussions, the Commission sees no reason to reject the evidence of those who attended the meetings that such was not the case. The evidence of witnesses is also to the effect that there was no agreement as to prices between Gair and Hinde & Dauch or either of them and D. P. L. or its members, and this evidence was not contradicted in any direct way.

The evidence is that Gair and Hinde & Dauch, after remaining outside D. P. L. activities for a year or so, began participating in the exchange of statistics and credit information through D.P.L. and continued to do so. It was argued on behalf of Gair and Hinde & Dauch that this participation should be regarded as a separate and distinct phase of D. P. L. operations and that there was no evidence which related Gair and Hinde & Dauch to the restrictive practices of D. P. L. with respect to prices and other matters.

The Commission has already expressed the opinion that the exchange of statistics must be regarded, in the circumstances disclosed in this inquiry, as an integral part of the functions of D.P.L. and that the exchange of information about individual company operations, in the manner in which it was conducted, was part of the arrangements designed to make the price-fixing practices operate satisfactorily so that the confidence of the participants would be maintained.

With respect to the participation of Gair and Hinde & Dauch in the exchange of statistics through D. P. L., it was argued before the Commission that the Canadian subsidiaries had done no more, and perhaps not even as much, as the parent companies were permitted to do in the United States under a Consent Decree⁽¹⁾ to which they were parties and which related to the container industry.

As this was not a contested action no reasons were given by the Court for the decree issued. However it is apparent on the face

(1) Civil Action No. 8-318, U.S. v. National Container Association, et al., Southern District of New York, April 23, 1940.

of the record that there is a substantial difference between the conditions attached to the Consent Decree in the container case in the United States and those existing in the boxboard industry in Canada during the period Gair and Hinde & Dauch participated in the exchange of statistics through D. P. L. The Consent Decree contains a specific prohibition of price fixing and other restrictive practices and thus excludes a situation where statistics could be collected as part of a price-fixing arrangement even though some participants in the exchange of statistics had not become parties to the price-fixing agreement. The nature of the container industry in the United States at the time the Consent Decree was entered also differed greatly from the boxboard industry in Canada. According to the complaint of the United States Department of Justice the National Container Association had a membership of 110 and was affiliated with 12 regional associations in which the national members held membership. At the time Gair and Hinde & Dauch began participating in the exchange of statistics there were ten members of D. P. L. and at the time of the hearing there were 12 members. In appraising the nature and effect of business practices the size and structure of an industry cannot be disregarded. It is the duty of the Commission to consider the effects of the practices disclosed by the evidence in relation to the circumstances in the industry in which they are carried on. Under the conditions existing in the boxboard industry in Canada the participation of Gair and Hinde & Dauch in the statistical exchange must be regarded as making unlikely the disruption of the D. P. L. arrangement from competitive causes.

If Gair and Hinde & Dauch had unwittingly become participants in a system of interchanging statistics through an organization of whose main purpose they were in ignorance, the situation would differ greatly. However, Gair and Hinde & Dauch had been members of Board Sales and were fully conversant with the purposes served through the interchange of statistics. Moreover their representatives had taken part in the negotiations which had resulted in the formation of D. P. L. and were thus fully aware that D. P. L. was intended to serve the same general purposes that had been served by Board Sales. Indeed, the fact that the proposed D. P. L. arrangement did not differ in its essential aspects from the Board Sales agreement was among the principal reasons why Gair and Hinde & Dauch did not enter D.P.L.

The action of Gair and Hinde & Dauch must also be considered in the light of the attitudes expressed by these companies in the D. P. L. negotiations. It is clear from the evidence that the refusal of Gair and Hinde & Dauch to become shareholders of D. P. L. did not arise from unwillingness to co-operate with other boxboard manufacturers in achieving what they regarded as desirable stability in the industry. Earlier in this chapter we gave an excerpt from an account of discussions about D. P. L. prepared by Charles E. Frohman of Hinde & Dauch in which he stated that he had told representatives of other manufacturers that he thought "everything that the group desired could be accomplished by a statistical association." In regard to the

same meeting, Mr. Frohman stated in this memorandum that he had also said:

" . . . with or without any agreement, H & D would be inclined to a cooperative attitude toward all competition, on the theory that an intelligent industry is necessary for the welfare of any one as well as the public."

(Serial 2200)

The following extract from a letter of Parker Newhall on behalf of Gair to Charles E. Frohman of Hinde & Dauch is also of significance in this connection:

"It was our reaction that Mr. Scowen's letter did not really present anything new, and the position of the Gair Company is the same as when I last talked to you, namely, that our Canadian subsidiary would be glad to enter into an agreement with the eleven other Canadian Companies substantially in the form prepared by Mr. Fowler and discussed in Montreal, except for the price fixing provisions which we feel should be eliminated. This, of course, would not prevent the other Companies from proceeding with a price fixing agreement of their own, if they desired to do so."

(Serial 2647)

In the light of the actual market situation which would prevail under competitive conditions, it is obvious that a group of companies would not proceed "with a price fixing agreement of their own" unless they had reasonable expectation that substantial producers not in the agreement would pursue policies which would permit the prices fixed by agreement to be effective.

The record in the inquiry establishes that this has been the situation since D. P. L. began operations. Whether a change in price has been announced by Gair, by Hinde & Dauch or by D. P. L., the new price has been adopted by all in the industry and there has been uniformity of price in all essential respects. From the viewpoint, therefore, of maintaining price uniformity the result has been the same as if Gair and Hinde & Dauch were members of D. P. L. although, as already indicated, the evidence does not establish an agreement on prices between Gair and Hinde & Dauch and members of D. P. L.

CHAPTER XI

CONCLUSIONS

The boxboard manufacturing industry in Canada is of considerable magnitude. In recent years the value of production of boxboard, as reported by the Dominion Bureau of Statistics, has exceeded fifty million dollars per annum. The increased production of boxboard has reflected the expansion in the Canadian economy as well as the marked trend toward the sale of goods in containers which have consumer appeal and the use of paperboard in the place of other materials.

The evidence shows that for a great many years, subject to control over maximum prices during the period of wartime controls, all domestic manufacturers of boxboard supplying the eastern Canadian market, except for two subsidiaries of U. S. corporations in the years since 1944, have had their prices, terms and conditions of sale and related matters controlled by incorporated organizations of which they and their representatives have been the shareholders.

The evidence also shows that because of proceedings under the Combines Investigation Act, resulting from an inquiry begun in 1938 into another field of paperboard manufacture in which some of the same companies were engaged, and in which proceedings the conviction of the parties was upheld by the Supreme Court of Canada in 1942, boxboard manufacturers became concerned about the legality of their practices. In the end, the Board Sales organization, through which the price-fixing and related arrangements had been carried on, was abandoned in 1944 and a new organization, Dominion Paperboard Limited, was set up. Following legal advice received from their counsel, two subsidiaries of American corporations refused to become shareholders in D. P. L. but after an interval began to participate in the exchange of statistical and credit information conducted by D.P.L.

In the opinion of the Commission the difference in form of organization between Board Sales and D. P. L. did not change the nature of the operations concerned with price-fixing and related arrangements which were carried on in substantially the same way with respect to standard lines through D. P. L. as they had been through Board Sales.

The arguments made to the Commission that the manufacture of boxboard possesses special features which justify the substantial interference with competition under the Board Sales and D. P. L. arrangements have been considered in the preceding chapter of this report. It is the opinion of the Commission that these arguments are

not soundly based and that the boxboard industry does not possess features which serve to distinguish it from other branches of Canadian industry from the viewpoint of the desirability of maintaining competition among industry members, including competition in price and related matters, although it is recognized that as a division of the pulp and paper industry there are problems and policies which can be dealt with effectively by co-operative action. Such action, of course, should not extend to collective measures which would result in restrictions of a detrimental nature.

It is the case that throughout the periods in which restrictive practices in regard to prices and related matters have been followed, the boxboard industry has had a substantial measure of tariff protection, particularly with respect to imports from the United States. The existence of this tariff protection has undoubtedly served to render more stable the market for boxboard in Canada, especially at times when a decline in demand in the United States might make the Canadian market attractive to manufacturers in the United States. The Commission believes that it is against the public interest that the reduction in competition resulting from the existence of the customs duties should be further extended by the elimination of price competition by arrangements among Canadian manufacturers of boxboard who operate within the shelter of that tariff.

The information furnished to the Commission as to the cost of manufacture of boxboard by some members of D. P. L. indicates that there are considerable variations in costs among different manufacturers. Counsel on behalf of D. P. L. pointed out that the "profits results varied considerably" among the companies surveyed which, of course, is the result of substantial variations in costs. In an industry where there is price competition the more efficient producer has the opportunity to enlarge the sale of his product and benefit the purchaser by passing on the advantage of his efficiency in the form of lower prices. The consequences of price competition in the boxboard industry were set out by W. H. O'Reilly in his memorandum prepared at the time of the Container Materials investigation in which he wrote with reference to the possibility of adopting an "open pricing plan", in part,

"The Industry should also be supplying grades extremely suitable to the uses to which they are put and these would be supplied, of course, at the lowest possible cost to the consumer. The lowest possible cost will undoubtedly prove to be that at which the most efficient mill can make a satisfactory profit. There will, therefore, be a constant incentive for mills to increase their efficiency, with corresponding benefits to the Industry as a whole."

Under the system of price determination which was followed under Board Sales and continued under D. P. L. the most efficient manufacturer of a particular class of standard boxboard has been precluded from seeking business on the basis of price and thus from bringing his efficiency most effectively to bear in seeking to expand the volume of his sales. Under the D. P. L. arrangement this factor cannot have been without influence also in the case of specialties. On the reverse side, manufacturers of boxboard as a whole have not had the fullest incentive, as described by Mr. O'Reilly, to increase their efficiency because of their knowledge that no change in price would be made except under the D. P. L. arrangements.

The foregoing condition, in the Commission's opinion, is related to the constant attention given under Board Sales and D. P. L. to the market positions of individual companies and to the share of the market due to a company on the basis of past records and to the value of complete statistics for the consideration of "intelligent operators". If a manufacturer's position in the market was the result of the efficiency of his operations and his ability to attract business by offering purchasers greater advantages than those available from his competitors, there could be no reliance on the presentation of statistics to show what share of the market might be due to a particular manufacturer, based on past records. The fact that such attention was given to statistics of this kind indicates to the Commission that it was considered by boxboard manufacturers that market positions were due more to the acceptance of a common code of conduct rather than to the results of competitive striving to secure a larger volume of business. Not only does this appear to be the case but the manner in which the statistics were presented and discussed from meeting to meeting, whether in D.P.L. or the Board Section of C. P. P. A., could be expected to assist in the maintenance of policies by individual companies to avoid seeking to increase their proportions of business in the market to an extent which could be regarded by other manufacturers as requiring some competitive response.

The argument was advanced on behalf of D. P. L. and its members that the significance of the restrictive practices under the D. P. L. arrangement was greatly diminished because the determination of price schedules was confined to "standard" grades of boxboard while the prices of "specialties" were set by the individual manufacturer who notified D. P. L. of the price so established. In the opinion of the Commission this argument disregarded the necessary relationship, in view of the practices followed, between the manner in which price schedules were determined by D. P. L. and the setting of the prices of specialties by individual members of D. P. L. It would not be realistic to accept that a group of manufacturers, having entered into such a far-reaching agreement for the fixing of prices as that of the D. P. L. arrangement, would leave a substantial segment of trade with no relationship to the general undertaking. The evidence reviewed in preceding chapters of this report indicates the close relationship

between the supervision of specialties and the general operations of D. P. L. Decision as to whether a particular product would be accepted as a specialty or not was made by the Board of Directors of D. P. L. and close attention was given to the registration of prices when a manufacturer was permitted to classify a product as a specialty. One requirement of registration is that at least 72 hours' notice be given of intention to change the prices, terms and conditions for the sale of any specialty. The evidence also discloses that in the case of certain contracts between an individual manufacturer and an individual customer for a "special grade" of boxboard the prices and terms of sale for such contracts have been fixed by D. P. L. Such special grades were not designated as specialties by D. P. L. but this fact, in the opinion of the Commission, serves to emphasize the length to which the specific price-fixing activities of D. P. L. were carried when it was considered necessary to set up safeguards against possible deviations from the common price structure. On the evidence as a whole the Commission considers that the arrangements with respect to specialties were not unrelated to the price-fixing operations carried on through D. P. L. There is the further point that specialties, as the name indicates, are grades which differ in some significant degree from types of boxboard in general use. The user of standard grades of boxboard is affected by the conditions under which such standard grades are marketed and if price competition is eliminated in the sale of standard grades the customer is deprived of any real alternative on a price basis whatever may be the conditions with respect to the sale of specialties. It will also be recalled from the data given in an earlier chapter with respect to the sales of specialties and standard lines that for the substantial majority of the members of D. P. L. standard lines constitute the bulk of their business.

In view of the effects of the practices under the D. P. L. arrangements which have been described in this and the preceding chapter, the Commission is of the opinion that the D. P. L. arrangements should be brought to an end and should not be resumed in any other form, as was the case when the change was made from Board Sales to D. P. L. In view of the long period during which identical prices have been maintained for boxboard and the structure of this industry, it would appear desirable in the public interest that there should be avoidance on the part of members of the industry of any joint practices which might contribute directly or indirectly to the establishment of any system which would produce the same effect as an agreement to have common prices. We have reference to such practices as manufacturers registering their prices or their intentions to change prices with a common office, with or without an undertaking to observe such prices until further notification, and with or without provision for outside inspection of sales records. For the same reason we believe that there should be the avoidance of any arrangement or practice to establish or maintain maximum standards of quality which would form a part of a policy of securing adherence to common prices.

In the opinion of the Commission there should also be avoidance of any system of exchange of statistics which would have the effect of leading to common regard for market positions not based on efficiency. We appreciate the assistance which can be secured by management from adequate industry statistics but we do not believe that it is necessary to go to the lengths to which statistical interchange was carried under D. P. L. As we have already pointed out it is sufficient in the boxboard industry for any one manufacturer to be able to relate his position to the progress of the industry as a whole. It is not necessary that a manufacturer be provided with and discuss with others in the industry the statistics of individual companies as has been done in the boxboard industry. There also appears to be no necessity in this industry for the system of auditing the statistics in the manner followed by D. P. L. In most cases, the most useful information is that which is most timely, and verification of data at a time subsequent to the period to which they relate cannot afford any substantial assistance in current decisions of management. While errors relating to past records may be discovered by an audit, even the system of auditing, as Mr. O'Reilly pointed out, does not remove the possibility of error. While, in the ordinary course, the more complete and accurate are the statistics available the more valuable they should be to management, such information does not provide, in itself, an infallible guide to the future course of business. If it did the role of management would be much less important. At the most, such information provides guides which company executives interpret as best they can.

In summary, we are of the opinion that the restrictive practices conducted through D. P. L. are against the public interest. For this reason we believe that the D. P. L. arrangements should be terminated and that no other arrangements be adopted by boxboard manufacturers which would produce or be likely to produce the same effects upon competition. In view of the long period of association for the purpose of restraining price competition we consider that it would be desirable, in the public interest, that boxboard manufacturers avoid the collection of statistics of the industry in a way which would reveal the operations of individual companies or would require any auditing or inspection of individual company records.

For the reasons already discussed the Commission does not express, with respect to any particular periods of time, an opinion as to the reasonableness of the prices established and maintained by D. P. L. It was stressed on behalf of D. P. L. and its members that the maintenance of reasonable prices was one of the primary intentions in the arrangement and the Commission does not doubt that the members of D. P. L. believed that the price determination which was made on each occasion was in keeping with this intention. The appraisal which has been made of the effects which could be expected to flow from the D. P. L. arrangement leads the Commission to the conclusion that the dangers in private price control under an arrangement of this kind

are of so serious a character that establishment of reasonable prices will, in general, be made more certainly in a competitive market. Consideration must be given not only to the situation which may exist at any point of time but to the results which are likely to be produced under competitive as against privately controlled conditions. In the opinion of the Commission the likelihood of public detriment will exist under the D. P. L. arrangement and, consequently, from the viewpoint of the public interest the arrangement should be abandoned.

If, after a length of time sufficient for observation of the conduct of boxboard manufacturers, it appears that a reasonable degree of competition in the industry has not been restored as a result of the abandonment of the formal restrictive arrangements, consideration could be given to the reduction or removal of import duties on boxboard so as to provide the public with a more competitive market.

(Sgd.) C. R. Smith

Chairman

(Sgd.) A. S. Whiteley

Member

(Sgd.) Guy Roberge

Member

Ottawa,
June 20, 1956.

APPENDIX A

Text of the D. P. L. Arrangement

ARRANGEMENT

between

BATHURST POWER & PAPER COMPANY, LIMITED

BEAVER WOOD FIBRE COMPANY, LIMITED

BROMPTON PULP & PAPER COMPANY, LIMITED

THE E. B. EDDY COMPANY

FRASER COMPANIES LIMITED

THE MILLER BROTHERS COMPANY, LIMITED

MINAS BASIN PULP AND POWER COMPANY LIMITED

NORTHEASTERN PAPER PRODUCTS LIMITED

PRICE BROTHERS SALES CORPORATION

HOWARD SMITH PAPER MILLS LIMITED

ST. MAURICE VALLEY PAPER COMPANY, LIMITED, and

STRATHCONA PAPER COMPANY, LIMITED

This arrangement is made at the City of Montreal, in the Province of Quebec,

BETWEEN:

BATHURST POWER & PAPER COMPANY, LIMITED
BEAVER WOOD FIBRE COMPANY, LIMITED
J. R. BOOTH LIMITED
BROMPTON PULP & PAPER COMPANY, LIMITED
FRASER COMPANIES LIMITED
THE MILLER BROTHERS COMPANY, LIMITED
PRICE BROTHERS SALES CORPORATION
HOWARD SMITH PAPER MILLS LIMITED
ST. MAURICE VALLEY PAPER COMPANY, LIMITED, and
STRATHCONA PAPER COMPANY, LIMITED

1. Nature of this Arrangement

This document is intended to set forth the full and exact measure of the business arrangement that exists between the ten signing companies. All the companies who are parties to this arrangement are manufacturers of paperboard or sole selling agents for manufacturers of paperboard and throughout this document they will be referred to as "the manufacturers". This arrangement is the sole agreement existing between the manufacturers; no hidden terms or separate contracts exist and there are no secret understandings between the manufacturers. If, in the future, changes or additions in the arrangement between the manufacturers become necessary, it is intended that such changes or additions shall be set forth in an amending agreement.

2. Necessity for this Arrangement

While it is recognized that any arrangement between a group of manufacturers comprising a substantial part of an industry is in danger of infringing, or at least of having the appearance of infringing, the provisions of Section 498 of the Criminal Code or the Combines Investigation Act, this arrangement is intended to avoid any such infringement. The situation in the paperboard industry requires some arrangement between a number of the units of the industry and probable developments during the war and post-war period make such an arrangement doubly necessary.

The demand for paperboard varies widely from year to year in direct proportion to industry activity within Canada and the accessibility of foreign markets. If industrial activity is at a high level, the demand is large for finished products for which paperboard is the raw material. If industrial activity is low, the demand for paperboard falls. The manufacture of paperboard requires large capital

investments in expensive plant and equipment and either extensive commitments for a term of years for pulpwood concessions and the development of forest facilities or a steady flow of waste materials for use in manufacture. At a time of high demand, the capacity of the Canadian industry may be taxed to the limit. At a time of low demand, there may exist considerable excess capacity. If, during a period of low demand, there is unrestricted competition in matters of price, the paperboard industry will tend to become demoralized; wage rates will tend to be reduced to undesirably low levels; and manufacturers will be forced to the verge of, if not into, bankruptcy. On the return to a period of normal or high demand after such a period of low demand, the manufacture of paperboard may be left in the hands of a few companies who have been able to survive the period of demoralization and the remaining capacity may prove inadequate to meet Canadian needs for paperboard. As the end of the present war approaches and reconversion from wartime to peacetime demands takes place, the probability of violent fluctuations in the demand for paperboard is likely to increase.

The manufacturers of paperboard who have signed this document believe that some system of voluntary price control is necessary in their own interests. But they also believe that it is necessary in the interests of the large body of workmen who depend upon the industry for their livelihood, in the interests of the consuming public which requires an assured and regular supply of paperboard for a multitude of uses, and, ultimately, in the interests of Canada, particularly during the difficult period of post-war reconstruction. Paperboard is not generally sold to the consuming public but is the raw material for other manufacturers. These manufacturers are engaged in different types of activity and they vary in the size and nature of their demands for paperboard. The manufacturers of paperboard who have entered into this arrangement have done so with the intention of assuring to all purchasers a stabilized price for paperboard and in the belief that, if all purchasers who require paperboard for their manufacturing processes are able to obtain their raw material on equal terms, the best interests of the ultimate consumers of paperboard products will thereby be furthered.

3. Paperboard Limited

The manufacturers agree that they will cause to be incorporated under the Dominion Companies Act a private company by the name of Paperboard Limited or some other similar name acceptable to the Secretary of State of Canada. This company shall be responsible for administering this arrangement. It shall have its head office in the City of Montreal, in the Province of Quebec, and shall have an authorized capital of \$15,000 divided into 150 shares of the par value of \$100 each. Each of the manufacturers agrees to subscribe to 5 shares of the capital stock of Paperboard Limited. The Board of Directors of Paperboard Limited shall be composed of one representa-

tive of each of the manufacturers who becomes a party to this arrangement.

4. Products Covered by this Arrangement

This arrangement shall apply to each manufacturer's sales in Canada of paperboard, with the exception of the items listed on Schedule "A" attached. It shall not apply to the sale of paperboard in export markets.

5. Prices

(a) Determination of Prices

Each manufacturer agrees to sell the products covered by this arrangement at the prices and on the terms and conditions determined from time to time by the Board of Directors of Paperboard Limited. Changes may be made in the prices, terms or conditions for the sale of any grade of paperboard covered by this arrangement and sold by any manufacturer with the approval of such manufacturer's representative on the Board of Directors of Paperboard Limited, such approval being deemed to be given if such representative fails to attend at any meeting of the Board of Directors. The Board of Directors of Paperboard Limited may establish, in particular cases, exceptions to the prices and terms and conditions determined for any of the products covered by this arrangement.

(b) Principles Applicable to Price Determinations

The manufacturers agree that their representatives on the Board of Directors of Paperboard Limited shall establish reasonable and fair prices for the products covered by this arrangement, having regard to general economic conditions, the needs of the public, the interests of labour, the necessity of maintaining productive capacity adequate to meet present and future demands, and a reasonable profit.

(c) Prices for Improved Products

The establishment of prices for recognized grades and types does not expressly or impliedly exclude the manufacture or sale of other grades and types. If an improved grade or type of paperboard for which no price has been determined is produced by any manufacturer, the latter, before selling such improved grade or type or offering it for sale, shall first submit to Paperboard Limited samples of and prices for such improved grade or type.

(d) Disclosure of Contracts

Each manufacturer agrees to submit to Paperboard Limited, within two weeks from the date of execution of this document, particulars

of all contracts, written or verbal, made prior to the date of this arrangement for the sale of products covered by it. Such information shall include the amount of tonnage sold for forward delivery or commitments made therefor, the names of persons to whom such tonnage has been sold or committed, the duration of the contract or commitment, the price and any other consideration for which it has been sold.

(e) Copies of Documents Relating to Prices

Each manufacturer agrees to transmit to Paperboard Limited promptly in respect of every sale of the products covered by this arrangement copies of all orders, invoices, credit notes, debit notes and any other relevant documents. Each manufacturer further agrees that his executive officer in charge of sales, and his auditor, treasurer, controller, or other executive officer having full knowledge of the manufacturer's affairs, shall provide Paperboard Limited with a sworn statement on the fifteenth day of each month declaring that the manufacturer has observed the terms of this arrangement and the prices determined by Paperboard Limited on all sales during the preceding calendar month, and declaring that the manufacturer has not made loans to or for the benefit of any customer or prospective customer or disposed of any products except as shown on invoices, credit notes or debit notes delivered to Paperboard Limited, and declaring further that no rebates or commissions direct or indirect other than those disclosed by documents delivered to Paperboard Limited have been allowed or promised in respect of the products covered by this arrangement.

(f) Audit

Each manufacturer agrees that auditors appointed by Paperboard Limited may at any time have access to and may make extracts from all books, records and papers of the manufacturer relating to sales of products covered by this arrangement.

6. Statistics

Each manufacturer agrees to supply to Paperboard Limited statistics of his production and sales of the products covered by this arrangement in such form and at such times as may be requested by Paperboard Limited for the purpose of compiling trade statistics for the information and guidance of the manufacturers. Such statistics may include - (a) details of production and shipment of different grades and types of products; (b) details of both domestic and export shipments; (c) orders received, manufactured and unfilled; and (d) credit reports showing outstanding accounts and the amounts thereof.

7. Expenses of Paperboard Limited

The work of preparing material for the use of the Board of Directors of Paperboard Limited and the gathering and compilation of statistics by that company will require management, secretarial and other office expenses. The exact amount of these expenses is difficult to determine. Accordingly, the manufacturers agree to make payments to Paperboard Limited by way of accountable advances to defray the expenses of that company.

Each manufacturer agrees to pay to Paperboard Limited while this arrangement continues in operation a sum equal to an amount per ton on the sales of the products covered by this arrangement, such amount to be determined from time to time by the Board of Directors of Paperboard Limited. Payments shall be made on the fifteenth day of each month on the basis of actual sales made during the preceding month. The payments made by individual companies shall be credited to the general funds of Paperboard Limited and the expenses of the company in respect of its duties defined by this document shall be paid out of such general funds. If at any time the payments made by the manufacturers to Paperboard Limited prove to be inadequate to defray expenses, the Board of Directors may assess additional sums to be paid in proportion to actual sales. If the payments made by the manufacturers to Paperboard Limited exceed the amount required to defray expenses, any balance remaining may, at the discretion of the Board of Directors, be held in the general funds of the company or distributed to the manufacturers in proportion to the amounts paid in by them.

8. Preservation of Right to Compete

Save in respect to matters of price and the terms and conditions of sale which constitute an element in price, the manufacturers specifically agree to preserve free competition between themselves. Each manufacturer may sell as much or as little of the products covered by this arrangement as he may decide or for which he can find a market. It is agreed that no penalty shall be sought to be imposed on any manufacturer who while conforming to this arrangement increases his sales or his proportion of the total sales of the manufacturers who have signed this document.

9. Addition of New Parties to this Arrangement

The benefits of this arrangement are available to any manufacturer in Canada of the products covered by this arrangement, whether such manufacturer is in business at the date of this arrangement or subsequently commences to manufacture paperboard, provided such manufacturer agrees to be bound by this arrangement and becomes a shareholder of Paperboard Limited. The original signatories of this document specifically agree that they will offer no inducements

and exert no pressure upon any other manufacturer of paperboard to become a party to this arrangement, and, on the other hand, that they will present no obstacle, individually or collectively, to any other manufacturer who desires to become a party to this arrangement.

If a manufacturer of the products covered by this arrangement desires to become a party thereto, he may do so by subscribing for five shares of the capital stock of Paperboard Limited and by executing the original copy of this arrangement, which shall be kept in the custody of the secretary of Paperboard Limited.

The signature of any manufacturer to this arrangement shall be deemed to evidence his undertaking both with the original signatories of this document and with any other manufacturers who may subsequently sign it. Each manufacturer agrees that he will cause his representative on the Board of Directors of Paperboard Limited to vote in support of the election as a director of the company of the representative of any manufacturer who may subsequently become a party and in support of a resolution to increase the Board of Directors accordingly, to the end that such subsequent party shall be able to participate in this arrangement and in the affairs of Paperboard Limited as fully as if he had been an original signatory of this document. Any subsequent signatory shall contribute to the expenses of Paperboard Limited on the same basis as the original signatories.

10. Duration of this Arrangement

This arrangement shall continue in force from September 1, 1944, until December 31, 1946, and shall be automatically extended thereafter from year to year, save and except that any party may at any time withdraw from this arrangement by giving Paperboard Limited not less than sixty days prior notice in writing specifying his intention to withdraw.

In the event that any party to the arrangement so signifies his intention to withdraw, the arrangement may be automatically extended in its application to the remaining parties by a resolution of the Board of Directors of Paperboard Limited unanimously supported by the representatives of such remaining parties at a meeting held at any time prior to the coming into effect of the withdrawing party's notice. In such event the arrangement will continue in operation as if the withdrawing party had never been a party to the arrangement.

11. Interpretation

The interpretation of this document and the rights of the parties hereunder shall be governed by the laws of the Province of Quebec.

IN WITNESS WHEREOF the following parties have executed this document on the fourteenth day of August, 1944:

BATHURST POWER & PAPER COMPANY, LIMITED

per * President

and * Secretary

BEAVER WOOD FIBRE COMPANY, LIMITED

per * President

and * Secretary

J. R. BOOTH LIMITED

per * Secretary * President

and * Director

BROMPTON PULP & PAPER COMPANY, LIMITED

per * President

and * Comptroller and Treasurer

THE E. B. EDDY COMPANY

per * President

and * Secretary

FRASER COMPANIES LIMITED

per * Pres.

and * Secty.

THE MILLER BROTHERS COMPANY, LIMITED

per * V/Pres.

and * Secty.

PRICE BROTHERS SALES CORPORATION

per * Director
and * Secretary

HOWARD SMITH PAPER MILLS LIMITED

per * Vice.Pres.
and * Sec-Treas.

ST. MAURICE VALLEY PAPER COMPANY, LIMITED

per * Pres.
and * Secy.

STRATHCONA PAPER COMPANY, LIMITED

per * Pres.
and * Sec-Treas.

IN WITNESS WHEREOF the following party has executed
this document on the 29th day of June, 1950.

NORTHEASTERN PAPER PRODUCTS LIMITED

per * Vice-President
and * Secretary-Treasurer

IN WITNESS WHEREOF the following party has executed
this document on the 29th day of December, 1950.

MINAS BASIN PULP AND POWER COMPANY LIMITED

per * President
and * Secretary

* Signatures appearing on document have not been reproduced.

THIS IS SCHEDULE "A" REFERRED TO IN THE ANNEXED
ARRANGEMENT DATED THE Fourteenth DAY OF
August, 1944

1. Paperboard in rolls for the manufacture of fibre wallboard for the producers own processing in Canada.
2. Container Board produced for and sold to manufacturers of shipping cases.
3. Ticket Bristol.
4. Tag Board.
5. Index Board.
6. Bristol Board.
7. Blanks.
8. Playing card stock.
9. Board for Paper Milk Containers.
10. Panel Board for the Automobile Industry.
11. Calendar Mounts.
12. Silk Wrapper.

(Serials 2208-2220)

APPENDIX B

EXTRACTS FROM THE STATEMENT OF EVIDENCE WITH REFERENCE TO PRICE DETERMINATION OCTOBER 1947-1953

113. The prices, terms and conditions of sale of the members of D. P. L. have been determined by its Board of Directors as provided in the agreement. Starting with the first price change after the lifting of wartime price control in October 1947 there have been seven general price revisions, all being increases. Of these, four were initiated by D. P. L. and three by GAIR or HINDE & DAUCH. On all occasions the prices, terms and conditions of sale of all the participating companies were changed at about the same times and in the same amounts so as to render them virtually identical.

A. Price Increase of October 1947

114. Paperboard was freed from price control in June 1947. The next meeting of D. P. L. took place on July 22, 1947, and this was the meeting on the train to Grand-Mere which has been discussed above. It will be recalled that the minutes of the meeting of the Board Section show a meeting of that group on the same train ending at 12:20 p. m., while the minutes of D. P. L. show a meeting from 11:30 a. m. to 12:45 p. m. The minutes of D. P. L. contain the following:

"Several mills advised of experiencing an increasing trend of rising costs making some grades unprofitable. In view of an anticipated increase in cost of pulp when pulp is removed from price control, it was felt that costs should again be carefully scrutinized. The secretary was instructed to obtain as much information as possible on present costs prior to the September meeting."

(Serial 1878)

Both the Board Section and D. P. L. met again on August 27, but the minutes indicate that the Board Section meeting ended at 11:15 and the D. P. L. meeting began at 11:30 and ended at 12:30. The D. P. L. minutes report:

"Arising out of minutes, it was emphasized that all mills should carefully survey their costs prior to the next meeting of the board and directors come to the meeting fully

equipped with information on their cost increases."

(Serial 1879)

There are minutes of both groups for October 2, 1947, and the D. P. L. minutes show that the meeting began at 11:00 a.m., which is a departure from the usual 11:30 a.m. The Board Section minutes say that that meeting ended at 11:35, thus indicating a thirty-five minutes overlap. At the D. P. L. meeting:

"The increases in manufacturing costs experienced by individual companies were discussed at length. It appeared that the increase in manufacturing costs had been much greater than the increase in selling prices permitted by Wartime Prices and Trade Board. Up to the present time, there is no sign of a reversal in the trend of increased costs and further increases in costs seemed likely to occur in the near future. It was agreed that the examination of costs should be continued and reconsidered at the next meeting of the Board."

(Serial 1881)

115. On October 14, D. P. L. met again, and on this occasion the Board Section minutes do not report a meeting. D. P. L. minutes contain the following:

"Further increases in costs experienced by individual manufacturers were discussed. It was reported that waste paper prices had been increased during the preceding week and that mills were faced with increased delivery costs by rail and by truck. Both these cost increases were additional to increases in pulp prices and other costs discussed at the preceding meeting of the Board on October 2nd, 1947.

The principles applicable to price determinations in the arrangement of the 14th August, 1944, were reviewed. The meeting gave consideration to the need to establish reasonable and fair prices for the products covered by the arrangement of August 14, 1944, having regard to general economic conditions and other factors mentioned in that agreement. Accordingly, on motion duly made, seconded and unanimously carried, it was resolved that prices, terms and conditions for the sale by manufacturers who are subscribers to shares in this company of the paperboard products as determined by the Board at its meeting on the 2nd April, 1947, be replaced by the determination of prices as set forth in the following schedule of prices A and B, effective 15th October, 1947."

(Serial 1883)

The schedules referred to are spread in the minutes.

116. In connection with the above extract, it is noted that HINDE & DAUCH had issued new prices during the preceding week, on October 7. The minutes, however, include no reference to the fact that HINDE & DAUCH had announced a price increase the previous week, which the D. P. L. directors followed in detail in their price schedules.

117. The new prices announced by HINDE & DAUCH were effective on October 8, 1947, and are in the price list (Serial 13613-20). The date of GAIR's announcement of the same prices is not in evidence but they were effective on October 15, 1947, as shown by their price list (Serials 2902-2904). The announcement of HINDE & DAUCH signed by F. F. Arnoldi, Sales Manager, Boxboard Division, was dated October 7, 1947, and was sent to all customers and to all the other participating companies and to W. H. O'Reilly, as indicated on the back of the file copy in the possession of the company, which is a separate photographic copy (Serial 13612). This letter purports to explain the reasons for the price increase, and makes no reference to any increase in waste paper prices. The letter is quoted, as follows:

"We find ourselves in a position where our costs have risen to the point where it is necessary for us to increase our prices.

We know you are aware that our Pulps have just gone up another \$10.00 to \$15.00 per ton which is directly reflected in our material costs. Our basic labour rate since the 1st of April is up 20%, coal in our Toronto mill is up .92¢ per ton, our felts and wires are up 24%, and chemicals, oils and greases and practically all other materials and supplies are up proportionately.

We fully appreciate that it seems a bad time to have to raise our prices owing to the general national situation but this has so seriously affected our profit position that we did not feel we had any other course open than to increase our prices as shown by our revised price list which is enclosed herewith.

As a matter of information, our price changes are all based entirely on costs and do not take into account any additional margin of profit. There is one item that we have anticipated, a \$1.00 per ton increase in our average Boxboard freight rates which we have been notified will be effective as of November 1st, 1947. In addition, we have already absorbed several adjustments in our cartage costs.

We trust that this additional cost is not going to cause you any hardship as we have always advised that we could not give any firm price under existing conditions and have warned of the present likelihood of an increase.

The prices as quoted will be effective on all shipments as of the morning of October 8th, 1947."

(Serial 13611)

118. A comparison of the three price lists in the D. P. L. schedule and those of GAIR and HINDE & DAUCH shows that price increases were identical with respect to all grades of paperboard and all terms and conditions of sale were identical except for the discrepancies noted below. Basic price increases varied for particular grades from \$7.00 to \$15.00 per ton. Prices on secondary operations were increased by 10 per cent except for one discrepancy with respect to slitting and winding. For slitting and winding, the D. P. L. list shows a very large increase, while HINDE & DAUCH and GAIR took the usual 10 per cent. With respect to terms and conditions of sale, there were two discrepancies. The first was in respect to shipments west of Ontario except Winnipeg, for which GAIR listed prices as f. o. b. the mill less a freight allowance of \$5.00 per ton, whereas HINDE & DAUCH and D. P. L. charged the Winnipeg price with freight equalized on Winnipeg. The second discrepancy was in the terms of sale, where GAIR and D. P. L. allowed 1 per cent 10 days, net 30 days, for Ontario and east, and 1 per cent 15 days, net 60 days, for places west of Fort William, whereas HINDE & DAUCH had only one basis, namely 1 per cent 10 days, net 30 days. The apparent differences in terms of sale and freight to the West have no significance because HINDE & DAUCH does not ship to the West and GAIR ships only to its subsidiary company in Western Canada.

. . .

An analysis of all the price lists of D. P. L., GAIR and HINDE & DAUCH for the period 1947 to 1953, shows that at other times there were similar discrepancies between D. P. L. and the other two companies in terms of sale and freight rates applicable to Western Canada. No further reference will be made to these discrepancies because they are subject to the same explanation respecting western business.

119. The discrepancy in the slitting and winding charge of D. P. L. very probably merely represents an error in the schedule. The difference between the listed D. P. L. charge and that of GAIR and HINDE & DAUCH was extremely large, and it was the only instance of a charge for a secondary operation being increased by anything other than 10 per cent. GAIR had already announced a 10 per cent increase in this particular charge before the D. P. L.

schedule was adopted, and the next D. P. L. schedule brought its list in line with GAIR and HINDE & DAUCH.

B. Price Increase of May 1948

120. On February 3, 1948, the question of increasing costs was discussed at a meeting of D. P. L. :

"It was drawn to the attention of the meeting that one manufacturer of unbleached kraft pulp had advised his customers of an increase of \$6.00 a ton effective as of the 1st of February, that some manufacturers of bleached and unbleached sulphite had advised their customers of an increase in price of \$15.00 a ton effective 1st of March, and that some manufacturers of groundwood pulp had advised customers of an increase in price of \$10.00 a ton effective 1st of March.

The mills were urged to re-examine their manufacturing processes to determine if it would be possible for them to absorb these price increases at current selling levels of paperboard.

It was agreed that the committee consisting of G. T. Cockerill, N. B. A. Fair, C. M. Matheson, W. W. Miller, and E. A. Smith, which had been appointed on the 12th day of February, 1945, would be charged with studying intensively the increasing cost of manufacturing paperboard."

(Serial 1898)

The Board Section minutes show a meeting on the same day, called for 9:30 a.m. and terminating at 11:55 a.m., while the D. P. L. minutes show its meeting as beginning at 11:30 a.m. and ending at 12:35 p.m. Other meetings were held by both groups on March 2, April 6 and May 4, 1948, although none of these are shown in the minutes as overlapping in time. D. P. L. minutes for March 2, 1948, dealt with costs and prices as follows:

"Arising out of the minutes, the secretary reported that the committee consisting of Messrs. G. T. Cockerill, N. B. A. Fair, C. M. Matheson, W. W. Miller, E. A. Smith, which had been charged with studying intensively the increasing costs of manufacturing paperboard, had met in Montreal on February 17th. It was the unanimous opinion of the committee that any decisions on selling prices of paperboard should be deferred until, a) the effect of the increase in price of pulp effective March 1st can be gauged accurately in actual manufacture; b) the increase anticipated in labour costs

are known. As the first negotiations between any company and the international unions are scheduled for early April, the pattern of wage increase, if any, should be known by mid April. Again, increased freight rates are possible, but the extent of the increase cannot be measured; deferment of a decision on selling prices might leave the matter open until an announcement of freight rates was made. The report of the committee was unanimously adopted."

(Serial 1900)

The April meeting of D. P. L. produced the following:

"It was reported that the first labour negotiations between a company and the international unions held in the preceding week had been unproductive of a settlement. It was hoped that other negotiations during the month of April would be productive."

(Serial 1905)

For the May meeting of D. P. L. the following is reported:

"It was drawn to the attention of the meeting that the committee which had been charged with studying intensively increasing costs of manufacturing paperboard had advised on the second day of March that any decisions on selling prices of paperboard should be deferred until (a) the effect of the increase in price of pulp effective March 1st could be gauged accurately in actual manufacture; (b) the increase anticipated in labour costs is known; and (c) until an announcement on freight rates was made.

It was reported that the wage negotiations between various companies and the International Unions which were in progress had developed to a point where the general pattern for wage increases would appear to be a 10% increase with a minimum increase of .10 an hour. It was further reported that freight rates on raw materials and on finished products had been increased by 22 1/2%.

The committee now reported that they had studied intensively the increasing costs, had weighed the effect of increased costs of pulps, freight and wages, and discussed their findings at length.

The principles applicable to price determination in the arrangement of the 14th August 1944 were reviewed. The meeting gave careful consideration to the need to establish reasonable and fair prices for the products covered by the arrangement having regard to general economic conditions

and increasing costs,

On motion duly made, seconded and unanimously carried, it was resolved that prices, terms and conditions for the sale by manufacturers who are subscribers to shares in this company of the paperboard products as determined by the Board at its meeting on the 14th October, 1947, be replaced by the determination of prices as set forth in the following schedules of prices 'A' and 'B', effective 10th May, 1948. "

(Serials 1907-8)

The schedules were spread in the minutes.

121. HINDE & DAUCH announced its price increase on May 12, 1948, in the following letter:

"Due to the sharp increase in our costs, with regard to raw materials, freight and labour, it is necessary that we have some relief in our selling price.

On the first of March this year, the Pulp Companies increased the price on all Pulps between \$10.00 and \$18.00 per ton and as you are aware the freight has been raised 21% since the first of April. In view of these increases and with the increase in our labour rates as well as all the incidental increases in coal, felts, wires, chemicals, etc., we find it necessary to issue at this time a new price list. We are fully aware that owing to the present condition of the market this is a bad time to put in such increases but due to these increased costs we find it absolutely necessary. In summing up the above, the overall yearly cost to our operations means an increase in excess of one million dollars.

You will note from this new price list that the base price has been raised from five to ten tons and the quantity discounts changed including the elimination of the discount for the quantities greater than fifty tons. You will also note a change in the caliper differentials.

We have endeavoured to keep you advised as to the possibility of such an increase and hope it is not going to cause too much confusion and inconvenience in your own operations.

The prices as quoted will be effective on all shipments as of the morning of May 12th, 1948."

(Serial 13721)

Since the total shipments of boxboards by HINDE & DAUCH for 1948 had a selling value of two and one-half million dollars, it is to be assumed that the "increase in excess of one million dollars" in annual costs must have related to the company's overall operations including container boards and corrugated cartons as well as box-board grades. The evidence does not indicate what proportion of it came to bear upon boxboard alone. (D. P. L. Statistics 1944-1953).

122. The HINDE & DAUCH price list, effective May 12, 1948, is Serials 13722-13729. GAIR's price list, effective May 17, is Serials 2965-2967. The price increases were identical in both lists with those of D. P. L., as were other terms and conditions. The price increases in the three lower-quantity brackets amount to about 7 1/2 per cent. The change in the price structure referred to in the HINDE & DAUCH announcement was common to all and represented a radical departure. Prior to this time, the base price had been the 5-ton price, and smaller quantities than five tons were priced at a premium over the 5-ton figure as follows:

2 tons	- 4% premium
1 ton	- 8% premium
Under 1 ton	- 25% premium

The May 1948 increase, however, adopted a new base price system whereby ten tons became the base price and the smaller quantities were priced as follows:

5 tons	- 2% premium
2 tons	- 4% premium
1 ton	- 8% premium
Les than 1 ton	- 25% premium

Terms of sale were altered uniformly in that discounts for quantities of 75 tons and over were eliminated, and caliper differentials were increased.

C. Price Increase of May 1950

123. The next general price increase came in May 1950, following discussions which began on October 4, 1949, according to the D. P. L. minutes, when:

"The implications of the devaluation in the Canadian dollar was discussed. The consensus was that manufacturing costs would increase, as the cost of fuels and all materials and repair parts imported from the United States would cost more in Canadian dollars. The extent of the increase in costs was not now thoroughly known. It was agreed that each

director would study this question intensively and come to the next meeting thoroughly conversant with the situation.

The announced 8% increase in freight rates was discussed. It was agreed that each director would study this question also and come to the next meeting prepared to discuss the burden on his company that would be caused by increased freight rates on both incoming and outgoing freight."

(Serial 1553)

On the same day the Board Section met and the minutes indicate an overlapping of 15 minutes in the reported times.

124. The discussion continued at the next meeting of D. P. L. on November 1, 1949, as follows:

"Arising out of the minutes discussion developed that each director had not yet finished his intensive study of the effects of the devaluation of the Canadian dollar on costs nor his study on the burden to his company caused by increased freight rates on both incoming and outgoing freight. It was agreed that consideration of these matters would be postponed till the next meeting."

(Serial 1555)

Again the Board Section minutes show a meeting immediately before D. P. L.

125. The next meeting of D. P. L. was on December 6, 1949, and the minutes relate that:

"Arising out of the minutes, individual directors reported on (1) the effects of devaluation of the Canadian dollar on the costs of his company and (2) on the increased burden caused to his company by increased freight rates on both incoming and out-going freight. It appeared that the average increase in costs was in the vicinity of \$1.50 a ton. The consensus being that it would be undesirable to request purchasers to absorb this increased cost, the matter was dropped."

(Serial 1557)

The minutes show a fifteen minutes' overlap in time between the D. P. L. meeting and the end of the Board Section meeting. This was one of the occasions on which the Board Section minutes show Mr. O'Reilly giving a report on the meeting of the National Paperboard Association, first to the Board Section and, later, to the D. P. L. meeting, which was entirely made up of persons who had already attended the Board Section meeting.

126. The question of higher costs did not come up again until April 4, 1950, the D. P. L. minutes reporting that:

"Reference was made to the study on the effects on costs of devaluation of the Canadian dollar and of the increased burden caused by increased freight rates on both incoming and outgoing freight referred to in the minutes of Tuesday, December 6th, 1949. At that time, it was agreed that mills would absorb these increased costs. Since then, costs have continued to increase and recently there has been a further increase in freight costs on both incoming and outgoing freight. It was believed that in view of the settlement with the unions on the Pacific Coast and of Hinde & Dauch's settlement with the unions in Toronto in February, both resulting in increased wage rates that labour costs were bound to increase. Directors were urged to study the increased costs intensively, determine if any or all could be absorbed or if it would be necessary to review the prices at which boxboards are sold. One director stated that in spite of increased mill and machine efficiency brought about by capital expenditures in 1949 his company's costs in the month of February, 1950, had increased over February 1949, by more than \$8.00 a ton."

(Serial 1569)

The Board Section minutes report a meeting on the same day but show no time overlapping.

127. D. P. L. met again on May 2, 1950, and the discussion on costs was as follows:

"Arising out of the minutes some directors reported that they had not completed their studies of increased costs and could not now determine if any or all could be absorbed. Since the last meeting of the Board the Beaver Wood Fibre Company had granted an increase in wages of 5% to their employees, the E. B. Eddy Company and Howard Smith Paper Mills had granted an increase of 7¢ an hour to their employees and it was reported that the Gair Company had recently settled with their Toronto employees on the basis of 6% increase. It was therefore apparent that the costs which had increased materially over those of the first quarter of 1949 would be further increased by the increase in wages.

It was agreed that the next meeting of the board would be held on Wednesday, the 17th of May at 9:30 a.m. in Room 2280, Sun Life Building, Montreal, for the purpose of determining if it would be necessary to review the prices at which boxboards are sold."

(Serial 1571)

The Board Section minutes of a meeting of the same day fail to show any overlapping either as to time or to content.

128. The price increase was adopted on May 17, 1950, by D. P. L., and on this date the Board Section did not meet according to the minutes. The D. P. L. resolution was as follows:

"Arising out of the minutes all directors reported that they had now completed their studies of increased costs and, in cases where labour agreements had not yet been completed, were able to estimate, fairly accurately, the increased costs that would be incurred as the general pattern of labour increases in the industry could now be discerned.

The consensus was that these increases in costs could not be absorbed by the manufacturers but must be partly compensated through an increase in selling price.

The principles applicable to price determination in the arrangement of the 14th August 1944 were reviewed. Having regard to general economic conditions and increasing costs mentioned above, the meeting gave careful consideration to the necessity to establish reasonable and fair prices for the products covered by the arrangement.

On motion duly made, seconded and unanimously carried, it was resolved that prices, terms and conditions, for the sale by manufacturers who are subscribers to shares in this company, of the paperboard products as determined by the Board at its meetings on the 4th day of May, 1948, 13th day of January, 1949, and the 1st day of March, 1949, be replaced by the determination of prices as set forth in the following schedules of prices 'A' and 'B' effective 22nd May, 1950."

(Serial 1573)

The schedules were, as usual, spread in the minutes.

129. The increase by HINDE & DAUCH was effective on May 25 and its price list is Serials 14182-9. GAIR also brought its prices into effect on May 25, the price list in evidence being Serial 3496-8. The date of their announcement is not known. The amount of the price increase was about 7 per cent on most boards.

130. Substantial changes had been made by D. P. L. in the prices for secondary operations and these were followed by GAIR and HINDE & DAUCH. As to the prices for the various grades, the GAIR list was identical with that of D. P. L. HINDE & DAUCH was also uniform except for No. 1 double white patent coated in the 5-ton bracket and under, and for No. 1 white patent coated manilla back in

the 2-ton bracket and under. These two discrepancies are the only real price discrepancies noted throughout the whole of the period since 1947. It is significant that the base 10-ton price is the same as that of D. P. L. and GAIR in both instances.

131. All three price lists revised the extra charges for cutting (these are shown in the D. P. L. minutes in schedule 'A' at Serial 1575 and in schedule 'B' at Serial 1579). It will be noted that a figure has been amended to read "390 square inches." This change is explained by the following extract from the minutes of the D. P. L. meeting of June 5, 1950:

"The minutes of the meeting of directors held on the 17th day of May were read. A question was raised as to the correctness of the cutting charge 'area' shown in both schedules 'A' and 'B' of the minutes.

It was pointed out that while the item now reads 'Cutting - sheets narrower than 15 inches or shorter than 26 inches but over 400 sq. inches - \$3.50 per ton extra. Under 400 sq. inches - \$10.00 per ton extra. '; heretofore the area has been determined by multiplying the width factor by the length factor. It was agreed that the item should have read 'Cutting - sheets narrower than 15 inches or shorter than 26 inches but over 390 sq. inches - \$3.50 per ton extra. Under 390 sq. inches - \$10.00 per ton extra.'

With this correction in both Schedules 'A' and 'B' incorporated in the minutes of the meeting of the 17th of May, the minutes were approved and ordered signed."

(Serial 1585)

Prior to the increase of May 1950, the lists had included "cutting" based upon 10 inches by 20 inches or 200 square inches. The lists of May 1950 all contained the same error of multiplication when the change was made to 15 inches by 26 inches, each showing 400 square inches instead of 390. As indicated above, this error was shortly afterwards corrected by D. P. L. It is not in evidence whether the correction was also made at this time by GAIR and HINDE & DAUCH, but their price lists for November 1950 included the amended figure.

D. Price Increase of November 1950

132. Discussions leading to a further price increase are first recorded in the minutes of the D. P. L. meeting of October 3, 1950, as follows:

"Reference was made to the revaluation of the Canadian dollar, to the request of the A. F. of L. Unions for reopening of contracts with mills for a discussion of wages and of the increased costs of materials experienced since the outbreak of the Korean situation.

Directors were urged to study the increased costs intensively, determine if any or all could be absorbed or if it would be necessary to review the prices at which boxboards were sold.

It was agreed that directors would be urged to have this study completed prior to the next meeting of the Board."

(Serial 1595)

A meeting of the Board Section had also been called for October 3, 1950, at 9:30 a.m. (Serial 25360). The meeting was duly held, although the starting time is now shown in the minutes and, for the first time since January 1947, the ending time is also not shown (Serials 25361-25365), but the D. P. L. minutes from which the above extract was taken indicate that the D. P. L. meeting began at 11:30 a.m. The following is an extract from the Board Section minutes:

"Mr. O'Reilly reported that all Canadian and U. S. A. pulp and paper mills and paper converters have been asked by Labour unions to hold discussions regarding increased rates."

(Serial 25362)

133. The question of increased prices was again raised at the meeting of D. P. L. on October 31, 1950, as follows:

"Arising out of the minutes some directors reported that they had not completed their studies of increased costs and could not now determine if any or all increases could be absorbed.

Since the last meeting of the Board, manufacturers in British Columbia had granted a 5% increase to labour with a minimum of 6 cents an hour and a maximum of 10 cents. Canadian International Paper Company had granted 5% with a minimum of 5 cents. Some Ontario mills were meeting the unions on November 2nd and some Quebec mills on November 7th or 8th. It was believed that the Fraser Companies were due to meet the unions this week. The consensus was that a pattern of 5% increase in wages might emerge. It was, therefore, apparent that in the event of this pattern emerging costs would be further increased."

(Serial 1597)

The Board Section minutes for the same day indicate a meeting immediately before the D. P. L. meeting but with no overlapping of time. They have the following report which appears to duplicate the excerpt quoted from the D. P. L. minutes:

"LABOUR MATTERS

A discussion was held regarding the wage demands made by labour unions to pulp, paper and board mills."

(Serial 25367)

134. The adoption of new schedules by D. P. L. took place on November 16, 1950, when no meeting was reported for the Board Section. The relevant minute follows:

"Arising out of the minutes the directors reported that they had now completed their studies of increased costs. In cases where labour agreements had not yet been reopened for a discussion of wages, it was possible to estimate accurately the increased costs that would be involved as the general pattern of wage increases showed increased labour costs of from five to six per cent.

Several directors reported that since the advance in boxboard prices in May 1948 their costs had increased much more rapidly than the prices of board. As an example one director said that his costs had increased from fifteen to twenty-two per cent, depending on the grades manufactured. Another director said that his average costs over all grades had increased by nineteen per cent. The directors were reminded that in May of this year prices had been increased by seven per cent which was admittedly below the level of cost increases. It was the unanimous opinion that these increases in cost could not be absorbed but must be compensated for in part through an increase in selling price.

The principles applicable to price determination in the Arrangement of the 14th August, 1944, were read and reviewed. Having regard to the increasing costs mentioned above and to general economic conditions, the meeting gave careful consideration to the necessity to establish reasonable and fair prices for the products covered by the Arrangement.

On motion duly made, seconded and unanimously carried, it was resolved that prices, terms and conditions for the sale by manufacturers who are subscribers to shares in this company of the paperboard products as determined by the Board at its meeting on the 17th day of May 1950 be replaced by the determination of prices as set forth in the following schedules of prices 'A' and 'B', effective 20th November 1950:"

(Serial 1599)

And the schedules were spread in the minutes.

135. The increase in D. P. L. prices was approximately six per cent, which was followed by GAIR and HINDE & DAUCH. GAIR's price list was dated and effective November 21, 1950 (Serials 3583-5). HINDE & DAUCH's announcement and price list were both dated November 22, 1950, the announcement reading as follows:

"We find, due to the sharp increase in cost of our Waste Papers, Pulps, Labour and Freights it is necessary that we again have some relief in our selling price.

The situation in the United States market has become so acute that it has directly affected all our material costs particularly on the higher grades as well as the increase that we have recently received on all Pulp prices. The result of this is that, along with our increase in wages which we have recently had to make on our labour contract, it has put us in a position where we find it necessary to revise our Bulletin No. 19 of May 25, 1950 and you will find attached hereto a new price list, Bulletin No. 20, effective November 22, 1950.

The increase is approximately 6% overall and you will also note that we have had to raise the price of skids and tops. This has become necessary due to our increased cost of lumber, etc. The skids going out as of today will be marked with an orange stencil so that they will be easily distinguishable from those previously being shipped which were marked in red and on being returned to us in good condition will be credited on the new basis of \$7.00 per skid and \$2.00 per top. The old ones will be received on the basis of the previous prices.

The prices as quoted will be effective on all shipments as of the morning of November 22, 1950."

(Serials 14206-14214)

E. Price Increase of January 1951

136. The next general price increase in January 1951 was not the subject of prior discussions at D. P. L. meetings. At the meeting of January 4, 1951, the following action is reported:

"It was reported that prices of all market pulps had increased as of January 1st and that there was a growing scarcity of waste paper for the manufacture of paperboard due to tonnage being exported to the United States. Mills reported having to import more tonnage from the United States at

increased costs to keep running, and the increasing costs of pulpwood for the manufacture of pulp.

The demand of the United Kingdom on Canadian mills for 30,000 tons of boxboard was considered.

Consensus was that this demand could not be filled if the Canadian market was to be supplied in full.

An estimate that the Canadian market would require 27,000 tons more in 1951 over 1950 was considered.

Consensus was that this might be met through improved operating facilities and improved operating conditions.

It was reported that two companies, not shareholders of this company, were requesting higher prices for boxboard grades manufactured by them as of January 2nd.

The principles applicable to price determination were read and reviewed. General economic conditions were considered, the needs of the public, the interests of labour and the necessity of maintaining productive capacity adequate to meet present and future demands were discussed.

On motion duly made, seconded and unanimously carried it was resolved that the prices, terms and conditions for the sale by manufacturers who are subscribers to shares in this company of the paperboard products as determined by the Board at its meeting on the 16th of November, 1950, be replaced by the determination of prices as set forth in the following schedules of prices A and B, effective 8th January 1951:"

(Serials 1617-8)

And the schedules were spread in the minutes.

137. These new prices of D. P. L. represented a further increase of six per cent and were the same as those previously announced by HINDE & DAUCH. This company had made the following announcement on December 29, 1950:

"We find that due to the increase in our Pulps and Raw Materials which are effective on all papers immediately and on Pulps as of the first of the year, it is necessary for us to increase our selling price on our different grades.

This has been brought about as far as our papers are concerned by the raiding of our Canadian market by the American buyers. As you know, we have found it necessary in

the past to buy a certain surplus from the States, and, with this raiding which has been taking place, it has meant we have had to increase our purchases from the United States at prices that have risen to hysterical proportions. Our hope is that we can maintain our Canadian markets within some reason so that the advance we are presently putting in can be held. If our Canadian market becomes out of hand, which is possible, it would be necessary for us to make further considerable advances but, in the meantime, we feel that with everybody's cooperation we can be reasonably sure of being able to hold the new level.

The prices on all boards we manufacture will be advanced approximately 6% as of the morning of January 2nd, 1951. We are attaching hereto our new Bulletin No. 21 covering all the grades we are presently manufacturing which we trust you will find in order.

There is one item you will notice in our price list on the first page under paragraph 'C' and that is, in future all items calling for less than one ton of a size even though they make up part of a ten ton order or a larger quantity, will be charged the full differential of 25% over the ten ton price as shown on the different schedules. Our loss in making these small quantities amounts to more than 25% due to the set-up on our machines and unless these quantities are given as an actual trim for one of the other sizes this extra charge will apply.

We trust you will find the above in order."

(Serial 14225)

This was followed on January 3, 1951, by the following announcement:

"We find on looking over our new Bulletin No. 21 that there are a number of changes to apply on Page 5 covering Bleached Manilla and we are attaching hereto a revised Page 5 which we trust will be found in order.

Will you please make this substitute in the above mentioned Bulletin and regretting any inconvenience we may have caused you."

(Serial 14224)

The attached price list (Serials 14226-14233) includes the revised page 5, referred to above. The D. P. L. schedules decided on at the meeting of January 4 included these revised prices.

the QP. L. minutes that two companies had increased their prices on January 2. Although the GAIR list (Serials 3625-7) was dated January 2, 1951, this was the effective date of the price increase, which was not notified to customers until January 5, 1951. This price announcement reads as follows:

"To Our Customers,

Dear Sirs:

Advances in the prices of raw materials used to manufacture paperboard make high production costs inevitable. It is, therefore, necessary for us to revise our selling prices.

Effective for shipments made on and after January 2nd, 1951, the prices shown in the enclosed price lists will apply. "

(Serial 3640)

The GAIR prices were the same as HINDE & DAUCH.

139. The Board Section did not meet on January 4, 1951.

F. Price Increase of June 1951

140. The next general increase took place in June 1951. The matter of increased costs was first discussed at the meeting of D.P.L. on May 1, 1951, as follows:

"The Secretary drew the attention of the meeting to two press reports of labour settlements, (a) between the Canadian International Paper Companies and their unions, whereby a general increase of 15¢ per hour had been granted to all employees except those covered by the papermakers wage scale; for employees covered by the papermakers wage scale an increase of 10% with a minimum of 15¢ per hour was given. In addition to this, under the A:B:C: Mechanics Agreement, mechanics were given an additional 6¢ per hour. (b) between the international unions and a group of fine paper manufacturers, whereby an increase of 11% with a minimum of 11¢ per hour was granted to all employees, plus 4¢ per hour to mechanics and 2¢ per hour to mechanic's helpers.

It was agreed that the pattern of labour rates now developing would result in higher costs, and that costs would also be affected by freight rates. In addition to the 5% increase requested by the railways from the Board of Transport

Commissioners some time ago, a further 14% increase in freight rates as from June 1, 1951, induced by the 40-hour week, had been applied for.

The Secretary was instructed to draw these increasing costs to the attention of each Director with the request that each Director advise him not later than Monday, the 28th instant, of the amount per ton his company's costs would be increased thereby."

(Serial 1640)

On that date the Board Section appears from its minutes to have met before D. P. L. Again on June 5, 1951, a meeting of D. P. L. is shown as taking place at Brookfield Golf Club at Buffalo, New York, at 11:30, at which increased costs were again discussed, as follows:

"Arising out of the minutes the secretary submitted an oral report on rising costs. The matter was tabled until the next meeting."

(Serial 1642)

Again the Board Section meeting is shown as having taken place at the same place immediately before the D. P. L. meeting. On neither occasion do the Board Section minutes indicate overlapping of time or content.

141. On June 12, 1951, the D. P. L. directors met and adopted a new schedule effective June 13, 1951 (Serials 1644-1653). There was no Board Section meeting on this date. The D. P. L. minutes make no reference to increases by the other two companies but indicate that the level of prices was decided purely by consideration of rising costs rather than price behaviour of other companies. This appears from the following:

"Arising out of the minutes the secretary submitted an oral report on rising costs. The principles applicable to price determination were read and approved. General economic conditions were considered. The needs of the public, the interests of labour and the necessity of maintaining productive capacity adequate to meet present and future demands were discussed.

On motion duly made, seconded and unanimously carried it was resolved that the prices, terms and conditions for the sale by manufacturers who are subscribers to shares in this company of the paperboard products as determined by the Board at its meeting on the 4th day of January, 1951, be replaced by the determination of prices as set forth in the following schedules of prices A and B, effective 13th June 1951:"

(Serial 1644)

The schedules, as usual, were spread in the minutes.

142. On June 8, however, several days before, GAIR had announced increases in prices in a new price list (Serial 3736-9), with the following covering letter:

"Recent substantial increases in our employees' wages, together with continuing increases in our general operating costs have so raised our manufacturing costs that it is necessary to revise the selling prices of our products.

Effective for shipments made on and after June 11th, 1951, prices charged will be those shown on the enclosed new price lists."

(Serial 3731)

The increase was 10 per cent on all prices and it was the same increase as that put into effect by D. P. L.

143. HINDE & DAUCH put out new prices (Serials 14254-14261) on June 11, effective the same day, with the following announcement:

"Due to the increase in cost of our raw materials, manufacturing, freights, etc. since the last schedule list of prices on January 2nd, 1951, we find it necessary to increase our selling price on our different grades of boxboard.

The main causes for this increase are brought about by the continued rise in the cost of our pulps which have advanced from 12 1/2% to 35% on the different grades. In addition to this we are still forced to buy a large percentage of our paper stocks from the United States. This has affected our weighted average of papers considerably and will continue to do so unless there is some drastic change in the market. Added to the above we have also been subject to increases in our freight rates as well as further demands from our labour. As a result we have no course open but to advance our selling price so as to take care of these additional costs.

The price on all boxboard grades we manufacture will be advanced approximately 10% as of Monday morning, June 11th. We are attaching hereto our new Bulletin No. 22 covering all the grades we presently manufacture. You will note there are no changes as far as differentials, extra charges, etc. are concerned - the only change being made is a straight 10% increase on the basic price.

Trusting you will find the above in order."

(Serial 14251)

144. In the files of HINDE & DAUCH a rough note was attached to a circular letter and price list, the letter being from F. F. Arnoldi, deceased Sales Manager of the Boxboard Division. The note was dated 6/6/51, the day after the Brookfield meeting and two days before GAIR made its price announcement. This rough sheet reads as follows: "Base price BML [bleached manilla lined] 136.50, .015 - 4.60 .018 - 5.13" [the price per square foot for two of the calipers] (Serial 14268). These prices were those initiated by GAIR and followed by D. P. L.

G. Price Increase of November 1953

145. The increase of November 1953 took place after this investigation was begun. The Board Section had met on October 20, 1953, and the following is an extract from the minutes:

"STATISTICS

Mr. O'Reilly distributed statistical reports; he discussed these and graphs of production and shipments.

Mr. O'Reilly informed the members an examination of the various paperboard statistics indicates that shipments to the domestic market during the fourth quarter of this year will probably amount to 70,200 tons.

GENERAL BUSINESS CONDITIONS

Business conditions are considered to be satisfactory and the outlook for the fourth quarter is optimistic."

(Serial 25458)

The Board Section meeting is shown as ending at 11:20 a. m. and the D. P. L. meeting as beginning at 11:30 a. m. The latter minutes contain the usual details of the statistics discussed, ending as follows:

"Charts showing production, domestic and export shipments, the backlog of orders and the number of days to run were presented.

At 1:15 p. m. the meeting adjourned, to reconvene at 2:45 p. m.

On reconvening all present at the morning session were again present with the exception of Messrs. R. H. Christian and A. E. Smith.

A discussion took place on the increases in costs mills had experienced since June 1951.

As all mills had not made an extensive study of the subject, they were unable to define their cost increases, and the question of any action that might be necessary on the basis of increased costs was deferred for later consideration.

At 4:15 p.m. the meeting ended."

(Serial 25236)

The Board Section met again on November 10, 1953, and midway through the minutes is the following:

"STATISTICS

Mr. O'Reilly distributed statistical reports; he discussed these and graphs of production and shipments.

GENERAL BUSINESS CONDITIONS

The consensus of opinion is that business will continue at the present high level through the balance of 1953."

(Serial 25461)

The Board Section minutes set the end of the meeting at 11:35 a.m. D. P. L. minutes indicate a meeting starting at 11:30 and continuing until 1:15. An extract from the minutes follows:

"Arising out of the minutes, mills which previously had not made an extensive study of cost increases reported on the results of their study. These were thoroughly discussed. The principles applicable to price determination were reviewed. The needs of the public, the interests of labour, the necessity of maintaining productive capacity adequate to supply present and future demands were discussed. General economic conditions were considered.

On motion duly made, seconded and unanimously carried, it was resolved that the prices, terms and conditions for the sale by manufacturers who are subscribers to shares of this company of the paperboard products as determined by the Board at its meeting on the 12th day of June, 1951, be replaced by the determination of prices as set forth in the following schedules of prices A and B, effective November 16, 1953:"

(Serial 25237)

The schedules are then spread in the minutes. Following them, and immediately before the termination of the meeting appear the details of the statistical discussion.

APPENDIX C

D. P. L. STATISTICS OF PRODUCTION,
DOMESTIC SHIPMENTS, AND EXPORT SHIPMENTS
OF BOXBOARD 1944-54

(Part of Exhibit H-18)

PRODUCTION

1945 - 1954

TONS

	GRADE	MILLS	1945 1946 1947 1948 1949 1950 1951 1952 1953 1954									
			1945	1946	1947	1948	1949	1950	1951	1952	1953	1954
FOLDING		Anglo-Can.	-	-	-	-	-	9	979	2685	5890	8647
		Bathurst	14880	15003	12511	16290	15089	16011	16724	16476	19775	19270
		Consolidated	4854	5446	5135	5143	4221	4328	4615	4746	3940	3098
		Eddy	14556	16308	17399	17949	15639	16409	17950	14361	16107	14982
		Fraser	14684	15450	15895	17469	16337	20200	21816	20352	21372	21922
		Price	20511	23762	26048	24935	18762	23306	25079	22618	18052	18713
		St. Lawrence	2514	2540	3671	5416	3387	4048	4387	2831	3245	1995
		Smith Hd.	8362	9136	9741	9314	8151	9735	9407	8725	9614	9176
		Total Pulp Mills	80361	87645	90400	96516	81586	94046	100957	92794	97995	97803
		Beaver	1338	1594	1623	1312	550	1658	1917	1710	1996	2353
SET-UP		Gair	17137	21190	26538	25254	26998	25496	27381	27205	29189	29887
		Hinde & Dauch	14187	14871	16719	17944	18619	16938	17235	16195	22829	23452
		Miller	238	1025	2124	1616	1514	2417	3892	1811	1609	1924
		Minas Basin	-	-	-	-	-	-	4292	1690	1269	1435
		Strathcona	575	1330	1354	1247	1107	1897	2695	1589	2354	3412
		Total Waste Mills	33475	40010	48358	47373	48788	48406	57412	50200	59246	62463
		Grand Total	113836	127655	138758	143889	130374	142452	158369	142994	157241	160266
		Anglo-Can.	-	-	-	-	-	154	779	743	2077	2815
		Bathurst	5720	5639	4297	4743	4985	5013	4672	3866	3044	2979
		Consolidated	1496	1761	2228	2163	2027	2883	1392	1168	1379	1184
ALL OTHER		Eddy	3520	2957	2857	2225	1356	1170	2626	1808	1950	1855
		Fraser	1154	1246	1321	1007	862	514	315	221	153	62
		Price	10637	6112	5696	5689	4414	5213	5290	4494	4941	5321
		St. Lawrence	2169	3689	3140	3750	2106	2777	1480	1490	1344	1020
		Smith Hd.	-	-	-	-	-	-	-	-	-	-
		Total Pulp Mills	24696	21404	19539	19577	15750	17724	16554	13790	14888	15236
		Beaver	3281	4070	4848	5036	5144	5735	5292	4311	5179	4276
		Gair	5562	6006	6584	7257	7517	7555	6032	5396	5116	3854
		Hinde & Dauch	998	1119	792	947	863	971	523	603	905	932
		Miller	3901	5088	5216	5820	7022	8205	8304	7752	9531	9486
TOTAL		Minas Basin	-	-	-	-	-	-	572	1608	1591	1080
		Strathcona	4536	4889	6819	7269	6448	8014	9212	7726	8688	8106
		Total Waste Mills	18278	21172	24259	26329	26994	30480	29935	27396	31010	27734
		Grand Total	42974	42576	43798	45906	42744	48204	46489	41186	45898	42970
		Anglo-Can.	-	-	-	-	-	3791	7590	5819	4994	5599
		Bathurst	1611	1662	1025	682	700	725	866	933	2607	3663
		Consolidated	12965	12988	15756	15268	15263	14136	17028	16350	16608	17014
		Eddy	1806	1795	2216	2544	3786	3220	2034	1948	1890	1710
		Fraser	2500	2849	2674	2673	2225	1773	2113	2074	2122	1932
		Price	10611	13915	13563	13624	12726	13068	15014	13178	13042	13268
		St. Lawrence	3631	5192	5519	4919	5535	5381	6013	5332	6486	6911
		Smith Hd.	768	837	1165	1266	1449	1350	1583	1404	1452	1270
		Total Pulp Mills	33892	39238	41918	40976	41684	43444	52241	47038	49201	51367
		Beaver	46405	47532	48442	49221	41334	42770	44299	37480	38591	37173
		Gair	8450	14013	21921	22948	18702	19233	19349	14642	17727	17946
		Hinde & Dauch	1522	1843	2343	2316	2314	2206	1998	2316	1942	2132
		Miller	3964	3457	3353	4223	3536	4019	4994	4023	4432	4841
		Minas Basin	-	-	-	-	-	-	2123	414	1152	754
		Strathcona	x 4426	x 5574	x 5317	x 4369	x 8746	x 3371	x 3411	x 2758	x 2443	x 2943
		Total Waste Mills	64767	72419	81376	83077	69632	71599	76174	61633	66287	65789
		Grand Total	98659	111657	123294	124053	111316	115043	128415	108671	115488	117156
		Anglo-Can.	-	-	-	-	-	3954	9348	9247	12961	17061
		Bathurst	22211	22304	17833	21715	20774	21749	22262	21275	25426	25912
		Consolidated	19315	20195	23119	25274	21511	21347	23035	22264	21927	21296
		Eddy	19882	21060	22472	22718	20781	20799	22610	18117	19947	18547
		Fraser	18338	19545	19890	21149	19424	22487	24244	22647	23647	23916
		Price	41759	43789	45307	44248	35902	41587	45383	40290	36035	37302
		St. Lawrence	8314	11421	12330	14085	11028	12206	11880	9653	11075	9926
		Smith Hd.	9130	9973	10906	10580	9600	11085	10990	10129	11066	10446
		Total Pulp Mills	138949	148287	151857	157069	139020	155214	169752	153622	162084	164406
		Beaver	51024	53196	54913	55569	47028	50163	51508	43501	45766	43802
		Gair	31149	41209	55043	55459	53217	52284	52762	47243	52032	51687
		Hinde & Dauch	16707	17833	19854	21207	21796	20115	19756	19114	25676	26516
		Miller	8103	9570	10693	11659	12072	14641	17190	13586	15572	16251
		Minas Basin	-	-	-	-	-	-	6987	3712	4012	3269
		Strathcona	9537	11793	13490	12885	11301	13282	15318	12073	13485	14461
		Total Waste Mills	116520	128601	153993	156779	145414	150485	163521	139229	156543	155986
		Grand Total	255469	281888	305850	313848	284434	305699	333273	292851	318627	320392

Non-Member Company - Reporting Statistics Only. x Includes Small Machine

PRODUCTION 1945-1954

PERCENT

BOXBOARD

GRADE	M I L L S 944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954
FOLDING	Anglo-Can.	-	-	-	-	-	.01	.62	1.88	3.75	5.40
	Bathurst	13.07	11.75	9.02	11.32	11.57	11.24	10.56	11.52	12.58	12.02
	Consolidated	4.26	4.27	3.70	3.57	3.24	3.04	2.91	3.32	2.51	1.93
	Eddy	12.79	12.78	12.54	12.48	12.00	11.52	11.33	10.04	10.24	9.35
	Fraser	12.90	12.10	11.45	12.14	12.53	14.18	13.78	14.23	13.59	13.68
	Price	18.02	18.61	18.77	17.34	14.39	16.36	15.84	15.82	11.48	11.68
	St. Lawrence	2.21	1.99	2.65	3.76	2.60	2.84	2.77	1.98	2.06	1.25
	Smith Id.	7.34	7.16	7.02	6.47	6.25	6.83	5.94	6.10	6.11	5.72
	Total Pulp Mills	70.59	68.66	65.15	67.08	62.58	66.02	63.75	64.89	62.32	61.03
	Beaver	1.18	1.25	1.17	.91	.42	1.16	1.21	1.20	1.27	1.47
	Gar	15.06	16.60	19.12	17.55	20.71	17.90	17.29	19.03	18.56	18.65
	Hinde & Lauch	12.46	11.65	12.05	12.47	14.28	11.89	10.88	11.32	14.52	14.63
SET-UP	Miller	.21	.80	1.53	1.12	1.16	1.70	2.46	1.27	1.02	1.20
	Minas Basin	-	-	-	-	-	-	2.71	1.18	.81	.89
	Strathcona	.50	1.04	.98	.87	.85	1.33	1.70	1.11	1.50	2.13
	Total Waste Mills	29.41	31.34	34.85	32.92	37.42	33.98	36.25	35.11	37.68	38.97
	Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
	Anglo-Can.	-	-	-	-	-	.32	1.68	1.80	4.53	6.54
	Bathurst	13.31	13.24	9.81	10.33	11.66	10.40	10.05	9.39	6.63	6.91
	Consolidated	3.48	4.14	5.09	4.71	4.74	5.98	2.99	2.83	3.00	2.74
	Eddy	8.19	6.95	6.52	4.85	3.17	2.43	5.65	4.39	4.25	4.32
	Fraser	2.69	2.93	3.02	2.19	2.02	1.07	.68	.54	.33	.15
	Price	24.75	14.35	13.00	12.40	10.33	10.81	11.38	10.91	10.77	12.38
	St. Lawrence	5.05	8.66	7.17	8.17	4.93	5.76	3.18	3.62	2.93	2.37
Smith Id.	-	-	-	-	-	-	-	-	-	-	
Total Pulp Mills	57.47	50.27	44.61	42.65	36.85	36.77	35.61	33.48	32.44	35.46	
Beaver	7.63	9.56	11.07	10.97	12.03	11.90	11.38	10.47	11.28	9.95	
Gar	12.94	14.11	15.03	15.81	17.58	15.67	12.98	13.10	11.15	8.97	
Hinde & Dauch	2.32	2.63	1.81	2.06	2.02	2.02	1.12	1.47	1.97	2.17	
Miller	9.08	11.95	11.91	12.68	16.43	17.02	17.86	18.82	20.76	22.08	
Minas Basin	-	-	-	-	-	-	1.23	3.90	3.47	2.51	
Strathcona	10.56	11.48	15.57	15.83	15.09	16.62	19.82	18.76	18.93	18.86	
Total Waste Mills	42.53	49.53	55.39	57.35	63.15	63.23	64.39	66.52	67.56	64.54	
Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	
ALL OTHER	Anglo-Can.	-	-	-	-	-	3.29	5.91	5.35	4.32	4.78
	Bathurst	1.63	1.49	.83	.55	.63	.63	.67	.86	2.26	1.13
	Consolidated	13.14	11.63	12.78	12.31	13.72	12.29	13.26	15.05	14.38	14.52
	Eddy	1.83	1.61	1.80	2.05	3.40	2.80	1.58	1.79	1.64	1.46
	Fraser	2.53	2.55	2.17	2.15	2.00	1.54	1.65	1.91	1.84	1.65
	Price	10.76	12.46	11.00	10.98	11.43	11.36	11.70	12.13	11.28	11.33
	St. Lawrence	3.68	4.65	4.48	3.97	4.97	4.68	4.68	4.91	5.62	5.90
	Smith Id.	.78	.75	.94	1.02	1.30	1.17	1.23	1.29	1.26	1.08
	Total Pulp Mills	34.35	35.14	34.00	33.03	37.45	37.76	40.68	43.29	42.60	43.85
	Beaver	47.03	42.57	39.29	39.68	37.13	37.18	34.50	34.49	33.41	31.73
	Gar	8.56	12.55	17.78	18.50	16.80	16.72	15.06	13.47	15.35	15.32
	Hinde & Dauch	1.55	1.65	1.90	1.87	2.08	1.92	1.56	2.13	1.68	1.82
TOTAL	Miller	4.02	3.10	2.72	3.40	3.18	3.49	3.89	3.70	3.84	4.13
	Minas Basin	-	-	-	-	-	-	1.65	.38	1.00	.64
	Strathcona	4.49	4.99	4.31	3.52	3.36	2.93	2.66	2.54	2.12	2.51
	Total Waste Mills	65.65	64.86	66.00	66.97	62.55	62.24	59.32	56.71	57.40	56.15
	Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
	Anglo-Can.	-	-	-	-	-	1.30	2.80	3.16	4.07	5.32
	Bathurst	8.70	7.92	5.83	6.92	7.30	7.11	6.68	7.26	7.98	8.09
	Consolidated	7.56	7.16	7.56	7.19	7.56	6.98	6.92	7.60	6.88	6.65
	Eddy	7.78	7.47	7.35	7.24	7.31	6.80	6.78	6.19	6.26	5.79
	Fraser	7.18	6.93	6.50	6.74	6.83	7.36	7.27	7.73	7.42	7.46
	Price	16.35	15.53	14.81	14.10	12.62	13.60	13.62	13.76	11.31	11.64
	St. Lawrence	3.25	4.05	4.03	4.49	3.88	4.00	3.56	3.30	3.48	3.10
Smith Id.	3.57	3.54	3.57	3.37	3.38	3.63	3.30	3.46	3.47	3.26	
Total Pulp Mills	54.39	52.60	49.65	50.05	48.88	50.78	50.93	52.46	50.87	51.31	
Beaver	19.97	18.87	17.95	17.70	16.53	16.41	15.45	14.85	14.36	13.67	
Gar	12.19	14.62	18.00	17.67	18.71	17.10	15.83	16.13	16.33	16.13	
Hinde & Dauch	6.54	6.33	6.49	6.76	7.66	6.58	5.93	6.53	8.06	8.28	
Miller	3.17	3.40	3.50	3.71	4.24	4.79	5.16	4.64	4.89	5.07	
Minas Basin	-	-	-	-	-	-	2.10	1.25	1.26	1.02	
Strathcona	3.74	4.18	4.41	4.11	3.98	4.34	4.60	4.12	4.23	4.52	
Total Waste Mills	45.61	47.40	50.35	49.95	51.12	49.22	49.07	47.54	49.13	48.69	
Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	

* Non-Member Company - Reporting Statistics Only.

DOMESTIC SHIPMENTS 1945 - 1954

TONS

	GRADES	M I L L S											
			1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	
FOLDING		Anglo-Can.	-	-	-	-	-	5	890	2569	5862	8523	
		Bathurst	13362	13542	11793	14830	14430	15646	15397	15540	19481	18894	
		Consolidated	2484	2280	2669	2686	2940	3363	3532	4090	3685	2905	
		Eddy	12714	14011	15206	15991	15294	16414	17708	14383	15988	14952	
		Fraser	16504	10893	10850	12050	14027	19084	17894	17722	21051	21764	
		Price	11711	12237	13609	14198	13795	20588	19100	15816	16326	14264	
		St. Lawrence	2465	2222	3486	5320	3304	4058	4375	2860	3247	1598	
		Smith Hd.	7679	8653	9102	8979	7852	9493	8976	8229	9596	9138	
		Total Pulp Mills	60919	63838	66715	74054	71642	88651	87872	81209	95236	92441	
		Beaver	1338	1586	1619	1312	542	1665	1877	1753	1996	2334	
SET-UP		♂ Gair	15280	19661	23699	23222	26310	25113	26369	26601	29235	29656	
		♂ Hinde & Dauch	14190	14861	16418	17836	18264	17010	17233	16154	22828	23536	
		♂ Miller	233	1019	2036	1498	1439	2189	2706	1694	1650	1917	
		♂ Minas Basin	-	-	-	-	-	-	2652	1220	1258	1447	
		♂ Strathcona	527	1345	1338	1211	1045	2016	2627	1637	2311	3355	
		Total Waste Mills	31568	38472	45110	45079	47600	47993	53464	49059	59278	62247	
		Grand Total	92487	102310	111825	119133	119242	136644	141336	130268	154514	154691	
		Anglo-Can.	-	-	-	-	-	131	792	681	2048	2931	
		Bathurst	5772	5614	4332	4823	4980	4904	4072	3427	2967	2971	
		Consolidated	1321	1317	1287	1432	1931	2936	1267	1147	1371	1175	
ALL OTHER		Eddy	3648	3100	2869	2148	1182	2620	1807	1933	1881	1881	
		Fraser	1071	1138	1198	1007	799	541	305	215	146	58	
		Price	798	1987	1882	1370	394	953	1007	652	505	208	
		St. Lawrence	1864	2618	2572	3032	1943	2780	1497	1546	1351	1020	
		Smith Hd.	-	-	-	-	-	-	-	-	-	-	
		Total Pulp Mills	14474	15774	14140	13812	11331	13427	11580	9475	10321	10244	
		Beaver	3256	3987	4859	5033	5044	5874	5287	4306	5176	4324	
		♂ Gair	5407	5869	6600	7082	7328	7494	5959	5432	5179	3881	
		♂ Hinde & Dauch	1051	1148	750	953	818	986	533	588	927	929	
		♂ Miller	3813	4911	5175	5636	7020	8214	7785	7637	9392	9237	
TOTAL		♂ Minas Basin	-	-	-	-	-	-	594	1552	1581	1111	
		♂ Strathcona	4524	4912	6813	7310	6494	8065	9269	7553	8510	8149	
		Total Waste Mills	18051	20827	24197	26014	26704	30633	29427	27068	30765	27636	
		Grand Total	32525	36601	38337	39826	38035	44060	41007	36543	41086	37880	
		Anglo-Can.	-	-	-	-	-	2675	5913	5641	5132	5645	
		Bathurst	1615	1668	1038	698	673	727	870	922	2607	3669	
		Consolidated	12658	12476	14813	14891	14935	14469	17129	16179	16333	17380	
		Eddy	1516	1409	2042	2519	3635	3333	1993	1943	1920	1751	
		Fraser	1475	1629	1284	1431	982	1989	1276	1313	1009	869	
		Price	10149	13011	12594	12290	12377	12877	13971	13135	12925	12792	
		St. Lawrence	3656	5275	5657	4704	5262	5093	5558	5102	6400	6746	
		Smith Hd.	727	840	1149	1217	1388	1366	1582	1434	1465	1265	
		Total Pulp Mills	31794	36308	38577	37750	39252	41099	48294	45669	47791	50117	
		Beaver	16029	19480	16584	20790	19184	18020	20655	16663	20541	21119	
		♂ Gair	8119	13031	21454	21563	16648	19218	19037	14253	17986	17888	
		♂ Hinde & Dauch	1372	1678	2417	2081	2235	2245	1980	2293	1892	2129	
		♂ Miller	3751	3390	3222	3835	3284	3995	4746	3913	4482	4825	
		♂ Minas Basin	-	-	-	-	-	-	294	338	1143	765	
		♂ Strathcona	x 4503	x 4731	x 4385	x 4112	x 3645	x 3363	x 3353	x 2834	x 2345	x 3030	
		Total Waste Mills	33774	42310	48062	52381	44996	46841	50065	40294	48389	49756	
		Grand Total	65568	78618	86639	90131	84248	87940	98359	85963	96180	99873	
		Anglo-Can.	-	-	-	-	-	2811	7595	8891	13042	17099	
		Bathurst	20747	20824	17163	20351	20083	21277	20339	19889	25055	25534	
		Consolidated	16463	16073	18769	19009	19806	20388	21948	21416	21389	21460	
		Eddy	17878	18520	20117	20658	20213	20969	22321	18133	19841	18584	
		Fraser	13050	13660	13332	14488	15808	20524	19477	19250	22206	22713	
		Price	22658	27235	28085	27858	26566	34418	34078	29603	29756	27266	
		St. Lawrence	7985	10115	11715	13056	10509	11931	11430	9508	10998	9746	
		Smith Hd.	8406	9493	10251	10196	9240	10859	10558	9663	11061	10403	
		Total Pulp Mills	107187	115920	119432	125616	122225	143177	147746	136353	153348	152805	
		Beaver	20623	25053	23062	27135	24770	25559	27819	22722	27713	27779	
		♂ Gair	28806	38561	51753	51867	50286	51825	51365	46286	52400	51428	
		♂ Hinde & Dauch	16613	17687	19585	20870	21317	20241	19746	19035	25647	26596	
		♂ Miller	7797	9320	10433	10969	11743	14398	15237	13244	15524	15979	
		♂ Minas Basin	-	-	-	-	-	-	3540	3110	3982	3323	
		♂ Strathcona	9554	10988	12536	12633	11184	13444	15249	12024	13166	14534	
		Total Waste Mills	83393	101609	117369	123474	119300	125467	132956	116421	138432	139639	
		Grand Total	190580	217529	236801	249090	241525	268644	280702	252774	291780	292444	

♂ Non-Member Company - Reporting Statistics Only. x Includes Small Machine.

DOMESTIC SHIPMENTS 1945 - 1954

PERCENT

	GRADE	M I L L S	PERCENT									
			1945	1946	1947	1948	1949	1950	1951	1952	1953	1954
FOLDING		Anglo-Can.	-	-	-	-	-	-	.63	1.97	3.80	5.51
		Bathurst	14.45	13.24	10.54	12.45	12.10	11.45	10.89	11.93	12.61	12.21
		Consolidated	2.68	2.23	2.39	2.25	2.47	2.46	2.50	3.14	2.38	1.88
		Eddy	13.75	13.69	13.60	13.42	12.83	12.01	12.53	11.04	10.35	9.67
		Fraser	11.36	10.65	9.70	10.11	11.76	13.97	12.66	13.60	13.62	14.08
		Price	12.66	11.96	12.17	11.92	11.57	15.07	13.51	12.14	10.57	9.22
		St. Lawrence	2.67	2.17	3.12	4.47	2.77	2.97	3.10	2.20	2.10	1.28
		Smith Hd.	8.30	8.46	8.14	7.54	6.58	6.95	6.35	6.32	6.21	5.91
		Total Pulp Mills	65.87	62.40	59.66	62.16	60.08	64.88	62.17	62.34	61.64	59.76
		Beaver	1.45	1.55	1.45	1.10	.45	1.22	1.33	1.44	1.29	1.51
SET-UP		φ Gair	16.52	19.22	21.19	19.49	22.06	18.38	18.66	20.42	18.92	19.17
		φ Hinde & Dauch	15.34	14.52	14.68	14.97	15.32	12.45	12.19	12.40	14.74	15.22
		Miller	.25	1.00	1.82	1.26	1.21	1.60	1.91	1.30	1.07	1.24
		Minas Basin	-	-	-	-	-	-	1.88	.94	.81	.93
		Strathcona	.57	1.31	1.20	1.02	.88	1.47	1.86	1.26	1.50	2.17
		Total Waste Mills	34.13	37.60	40.34	37.84	39.92	35.12	37.83	37.66	38.36	40.24
		Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
		Anglo-Can.	-	-	-	-	-	.30	1.93	1.86	4.98	7.74
		Bathurst	17.75	15.34	11.30	12.11	13.09	11.13	9.93	9.38	7.22	7.84
		Consolidated	4.06	3.60	3.36	3.60	5.08	6.66	3.14	3.14	3.24	3.10
ALL OTHER		Eddy	11.22	8.47	7.48	5.39	3.37	2.68	6.39	4.94	4.70	4.97
		Fraser	3.29	3.11	3.12	2.53	2.10	1.23	.74	.60	.36	.15
		Price	2.45	5.43	4.91	3.44	1.04	2.16	2.46	1.78	1.23	.56
		St. Lawrence	5.73	7.15	6.71	7.61	5.11	6.31	3.65	4.23	3.29	2.60
		Smith Hd.	-	-	-	-	-	-	-	-	-	-
		Total Pulp Mills	44.50	43.10	36.88	34.68	29.79	30.47	28.24	25.93	25.12	27.04
		Beaver	10.61	10.89	12.67	12.64	13.26	13.33	12.90	11.78	12.60	11.12
		φ Gair	16.63	16.03	17.22	17.76	19.27	17.01	14.53	14.86	12.60	10.26
		φ Hinde & Dauch	3.23	3.14	1.96	2.40	2.15	2.24	1.30	1.61	2.26	2.45
		Miller	11.72	13.42	13.50	14.15	18.46	16.65	18.98	20.90	22.86	24.39
TOTAL		Minas Basin	-	-	-	-	-	-	1.45	4.25	3.85	2.93
		Strathcona	13.91	13.42	17.77	18.35	17.07	16.30	22.60	20.67	20.71	21.51
		Total Waste Mills	55.50	56.90	63.12	65.32	70.21	69.53	71.76	74.07	74.88	72.96
		Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
		Anglo-Can.	-	-	-	-	-	3.04	6.01	6.56	5.34	5.65
		Bathurst	2.46	2.12	1.20	.77	.80	.83	.88	1.07	2.71	3.67
		Consolidated	19.30	15.87	17.10	16.52	17.73	16.02	17.42	18.82	16.98	17.40
		Eddy	2.31	1.79	2.36	2.79	4.31	3.84	2.03	2.26	2.00	1.75
		Fraser	2.25	2.07	1.48	1.60	1.16	1.02	1.30	1.53	1.05	.87
		Price	15.46	16.55	14.53	13.64	14.69	14.64	14.26	15.28	13.44	12.81
TOTAL		St. Lawrence	5.58	6.71	6.53	5.22	6.25	5.79	5.65	5.94	6.65	6.76
		Smith Hd.	1.11	1.07	1.33	1.35	1.65	1.55	1.61	1.67	1.52	1.27
		Total Pulp Mills	46.49	46.18	44.53	41.89	46.59	46.73	49.10	53.13	49.69	50.18
		Beaver	24.45	24.76	19.14	23.07	22.77	20.50	21.00	19.38	21.36	21.15
		φ Gair	12.38	16.56	24.76	23.92	19.76	21.86	14.35	16.58	18.70	17.91
		φ Hinde & Dauch	2.10	2.13	2.79	2.31	2.65	2.55	2.02	2.67	1.92	2.13
		Miller	5.72	4.31	3.72	4.25	3.90	4.54	4.82	4.55	4.66	4.83
		Minas Basin	-	-	-	-	-	-	.36	.39	1.18	.77
		Strathcona	6.86	6.02	5.06	4.56	4.33	3.82	3.41	3.30	2.44	3.03
		Total Waste Mills	51.51	53.82	55.47	58.11	53.41	53.27	50.90	46.87	50.31	49.82
TOTAL		Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
		Anglo-Can.	-	-	-	-	-	1.05	2.71	3.52	4.47	5.85
		Bathurst	10.89	9.57	7.25	8.17	8.32	7.92	7.25	7.87	8.59	8.73
		Consolidated	8.64	7.40	7.93	7.63	8.20	7.59	7.82	8.47	7.33	7.34
		Eddy	9.38	8.51	8.49	8.30	8.37	7.81	7.95	7.17	6.80	6.35
		Fraser	6.85	6.26	5.63	5.82	6.54	7.64	6.94	7.62	7.61	7.77
		Price	11.89	12.52	11.86	11.18	11.00	12.81	12.14	11.71	19.20	9.32
		St. Lawrence	4.19	4.65	4.95	5.21	4.35	4.44	4.07	3.76	3.77	3.33
		Smith Hd.	4.40	4.36	4.33	4.09	3.82	4.04	3.76	3.82	3.79	3.56
		Total Pulp Mills	56.24	53.29	50.44	50.43	50.60	53.30	52.64	53.94	52.56	52.25
TOTAL		Beaver	10.82	11.52	9.74	10.90	10.26	9.52	9.61	8.99	9.50	9.56
		φ Gair	15.11	17.73	21.85	20.82	20.82	19.29	18.30	18.31	17.96	17.54
		φ Hinde & Dauch	8.72	8.13	8.27	8.36	8.83	7.53	7.03	7.53	8.79	9.69
		Miller	4.10	4.28	4.41	4.40	4.86	5.36	5.43	5.24	5.32	5.46
		Minas Basin	-	-	-	-	-	-	1.26	1.23	1.36	1.14
		Strathcona	5.01	5.05	5.29	5.07	4.63	5.00	5.43	4.76	4.51	4.90
		Total Waste Mills	43.76	46.71	49.56	49.57	49.40	46.70	47.36	46.06	47.44	47.75
		Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

φ Non-Member Company - Reporting Statistics Only

EXPORT SHIPMENTS

1945 - 1954

TONS

BOXBOARD

GRADE	N I L L S	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954
FOLDING	Anglo-Can.	1592	1416	736	1360	645	366	70	101	-	-
	Bathurst	2414	3194	2516	2515	1274	998	1321	926	164	445
	Consolidated	1968	2417	2324	2051	710	88	1077	666	132	226
	Eddy	4390	4516	5256	5396	2273	1271	3876	2708	76	199
	Fraser	8927	11732	12771	10733	5042	2700	5847	7451	1742	4081
	Price	50	271	180	80	44	-	-	-	-	-
	St. Lawrence	750	462	532	518	255	274	363	535	19	69
	Smith Hd.	-	-	-	-	-	-	-	-	-	-
	Total Pulp Mills	20091	24008	24315	22653	10243	5697	12582	12421	2137	5026
	Beaver	-	-	-	-	-	-	-	-	-	-
SET-UP	‡ Gair	1871	1612	2786	1752	816	319	716	706	-	77
	‡ Hinde & Dauch	-	19	36	89	79	202	1065	151	-	-
	‡ Miller	-	-	-	-	-	-	1664	457	-	-
	‡ Minas Basin	-	-	-	-	-	-	-	-	-	-
	‡ Strathcona	-	-	-	2	-	-	-	-	-	-
	Total Waste Mills	1871	1631	2822	1843	895	521	3445	1314	-	77
	Grand Total	21962	25639	27137	24496	11138	6218	16027	13735	2137	5103
ALL OTHER	Anglo-Can.	-	-	-	-	-	-	-	-	-	-
	Bathurst	180	451	916	760	86	20	597	435	105	-
	Consolidated	14	-	-	-	-	-	134	17	-	17
	Eddy	76	76	70	-	8	-	-	-	-	-
	Fraser	9819	4052	3818	4263	3984	4272	4356	3811	4455	5004
	Price	301	997	560	772	54	-	-	-	-	-
	St. Lawrence	-	-	-	-	-	-	-	-	-	-
	Smith Hd.	-	-	-	-	-	-	-	-	-	-
	Total Pulp Mills	10390	5576	5364	5795	4132	4403	5087	4263	4560	5021
	Beaver	-	2	7	-	-	-	-	-	-	-
TOTAL	‡ Gair	143	124	-	203	167	42	41	24	-	-
	‡ Hinde & Dauch	-	-	-	-	-	-	-	-	-	-
	‡ Miller	79	68	118	149	28	58	429	210	200	229
	‡ Minas Basin	-	-	-	-	-	-	-	-	-	-
	‡ Strathcona	-	-	-	-	-	-	-	-	-	-
	Total Waste Mills	222	194	125	352	195	100	470	234	200	229
	Grand Total	10612	5770	5489	6147	4327	4503	5557	4497	4760	5250
	Anglo-Can.	-	-	-	-	-	1129	1819	150	-	-
	Bathurst	280	494	662	472	250	-	-	10	-	-
	Consolidated	103	87	62	-	-	-	11	-	-	-
TOTAL	Eddy	1009	1157	1375	1274	1179	748	820	753	1214	1038
	Fraser	26	996	566	1240	438	355	334	-	-	-
	Price	23	-	-	192	336	295	440	168	67	138
	St. Lawrence	17	-	-	-	-	-	-	-	-	-
	Smith Hd.	-	-	-	-	-	-	-	-	-	-
	Total Pulp Mills	1458	2734	2665	3178	2203	2527	3424	1081	1281	1176
	Beaver	30684	27905	31570	28793	21815	25071	23161	20972	18044	16211
	‡ Gair	436	1044	255	1512	2110	171	105	389	-	111
	‡ Hinde & Dauch	-	-	-	-	-	-	-	-	-	-
	‡ Miller	297	123	164	386	256	31	125	119	1	5
TOTAL	‡ Minas Basin	-	-	-	-	-	-	1888	-	-	-
	‡ Strathcona	-	825	952	230	-	-	-	-	-	-
	Total Waste Mills	31417	29897	32941	30921	24181	25273	25279	21480	18045	16327
	Grand Total	32875	32631	35606	34099	26384	27800	28703	22561	19326	17503
	Anglo-Can.	-	-	-	-	-	1129	1889	251	-	-
	Bathurst	1592	1416	736	1360	645	477	1918	1361	269	445
	Consolidated	2874	4139	4094	3747	1610	1018	1211	693	132	243
	Eddy	2085	2504	2386	2051	710	88	39	34	4	6
	Fraser	5475	5749	6701	6670	3460	2019	4696	3461	1290	1237
	Price	18772	16780	17155	16236	9464	7327	10537	11262	6197	9085
TOTAL	St. Lawrence	374	1268	740	1044	434	295	440	168	67	138
	Smith Hd.	767	462	532	518	255	274	363	535	19	69
	Total Pulp Mills	31939	32318	32344	31626	16578	12627	21093	17765	7978	11223
	Beaver	30684	27907	31577	28793	21815	25071	23161	20972	18044	16211
	‡ Gair	2450	2780	3041	3467	3093	532	862	1119	-	188
	‡ Hinde & Dauch	-	-	-	-	-	-	-	-	-	-
	‡ Miller	376	210	318	624	363	291	1619	480	201	234
	‡ Minas Basin	-	-	-	-	-	-	3552	457	-	-
	‡ Strathcona	-	825	952	232	-	-	-	-	-	-
	Total Waste Mills	33510	31722	35888	33116	25271	25894	29194	23028	18245	16633
TOTAL	Grand Total	65449	64040	68232	64742	41849	38521	50287	40793	26223	27856

‡ Non-Member Company - Reporting Statistics Only

EXPORT SHIPMENTS

1945-1954

PERCENT

BOXBOARD

GRADE	MILLS	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954
FOLDING	Anglo-Can.	-	-	-	-	-	-	.44	.79	-	-
	Bethurst	7.25	5.52	2.71	5.55	5.79	5.89	8.24	6.74	7.67	8.72
	Consolidated	10.99	12.46	9.27	10.27	11.44	16.05	6.72	4.85	6.18	4.43
	Eddy	8.96	9.43	8.56	8.37	6.37	1.41	.18	.25	.18	.17
	Fraser	19.99	17.61	19.38	22.03	20.41	20.44	24.18	19.72	3.56	3.00
	Price	40.65	45.76	47.06	43.82	45.27	43.42	36.48	54.25	81.52	79.97
	St. Lawrence	.23	1.06	.66	.33	.40	-	-	-	-	-
	Smith Hd.	3.41	1.80	1.96	2.11	2.28	4.41	2.26	3.89	.89	1.35
	Total Pulp Mills	91.48	93.64	89.60	92.48	91.96	91.62	78.50	90.43	100.00	98.49
	Beaver	-	-	-	-	-	-	-	-	-	-
SET-UP	† Gair	8.52	6.29	10.27	7.15	7.33	5.13	4.47	5.14	-	1.51
	† Hinde & Dauch	-	-	-	-	-	-	-	-	-	-
	Miller	-	.07	.13	.36	.71	3.25	6.65	1.10	-	-
	Minas Basin	-	-	-	-	-	-	10.38	3.33	-	-
	Strathcona	-	-	-	.01	-	-	-	-	-	-
	Total Waste Mills	8.52	6.36	10.40	7.52	8.04	8.38	21.50	9.57	-	1.51
	Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
ALL OTHER	Anglo-Can.	-	-	-	-	-	-	-	-	-	-
	Bethurst	-	-	-	-	-	2.47	10.74	9.67	2.21	-
	Consolidated	1.70	7.82	16.69	12.36	1.99	.44	2.41	.38	-	.32
	Eddy	.13	-	-	-	-	-	-	-	-	-
	Fraser	.72	1.32	1.27	-	.18	-	-	-	-	-
	Price	92.52	70.22	69.56	69.36	92.07	94.87	78.39	84.75	93.59	95.32
	St. Lawrence	2.84	17.28	10.20	12.56	1.25	-	-	-	-	-
	Smith Hd.	-	-	-	-	-	-	-	-	-	-
	Total Pulp Mills	97.91	96.64	97.72	94.28	95.49	97.78	91.54	94.80	95.80	95.64
	Beaver	-	.03	.13	-	-	-	-	-	-	-
TOTAL	† Gair	1.35	2.15	-	3.30	3.86	.93	.74	.53	-	-
	† Hinde & Dauch	-	-	-	-	-	-	-	-	-	-
	Miller	.74	1.18	2.15	2.42	.65	1.29	7.72	4.67	4.20	1.36
	Minas Basin	-	-	-	-	-	-	-	-	-	-
	Strathcona	-	-	-	-	-	-	-	-	-	-
	Total Waste Mills	2.09	3.36	2.28	5.72	4.51	2.22	8.46	5.20	4.20	4.36
	Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
ALL OTHER	Anglo-Can.	-	-	-	-	-	4.06	6.34	.66	-	-
	Bethurst	-	-	-	-	-	.95	-	.04	-	-
	Consolidated	.85	1.51	1.86	1.38	-	-	-	-	-	-
	Eddy	.31	.27	.17	-	-	-	.04	-	-	-
	Fraser	3.07	3.55	3.86	3.74	4.47	2.69	2.86	3.35	6.28	5.99
	Price	.08	3.05	1.59	3.64	1.66	1.28	1.16	-	-	-
	St. Lawrence	.07	-	-	.56	1.27	1.06	1.53	.74	.35	.79
	Smith Hd.	.05	-	-	-	-	-	-	-	-	-
	Total Pulp Mills	4.43	8.38	7.48	9.32	8.35	9.09	11.93	4.79	6.63	6.72
	Beaver	93.34	85.52	88.66	84.44	82.68	90.18	80.69	92.96	91.36	93.62
TOTAL	† Gair	1.33	3.20	.72	4.43	8.00	.62	.36	1.72	-	.49
	† Hinde & Dauch	-	-	-	-	-	-	-	-	-	-
	Miller	.90	.38	.46	1.13	.97	.11	.44	.53	.01	.03
	Minas Basin	-	-	-	-	-	-	6.58	-	-	-
	Strathcona	-	2.52	2.68	.68	-	-	-	-	-	-
	Total Waste Mills	95.57	91.62	92.52	90.68	91.65	90.91	88.07	95.21	93.37	93.28
	Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
TOTAL	Anglo-Can.	-	2.21	1.08	2.10	1.54	2.93	3.76	.62	-	1.60
	Bethurst	2.43	6.46	6.00	5.79	3.85	2.64	3.81	3.34	1.02	1.60
	Consolidated	4.39	3.91	3.50	3.17	1.70	.23	2.42	1.70	.50	.87
	Eddy	3.19	8.98	9.82	10.30	8.27	5.24	9.34	8.48	4.92	4.44
	Fraser	8.37	26.20	25.14	25.08	22.60	19.02	20.95	27.61	23.63	32.44
	Price	28.68	1.98	1.08	1.61	1.04	.77	.87	.41	.26	.50
	St. Lawrence	.57	.72	.78	.80	.61	.71	.72	1.31	.07	.25
	Smith Hd.	1.17	-	-	-	-	-	-	-	-	-
	Total Pulp Mills	48.80	50.46	47.40	48.85	39.61	32.78	41.95	43.55	30.42	40.29
	Beaver	46.88	43.58	46.28	44.48	52.13	65.08	46.06	51.41	68.81	58.20
TOTAL	† Gair	3.74	4.34	4.46	5.35	7.39	1.38	-	2.74	-	.67
	† Hinde & Dauch	-	-	-	-	-	-	-	-	-	-
	Miller	.58	.33	.47	.96	.87	.76	3.22	1.18	.77	.84
	Minas Basin	-	-	-	-	-	-	7.06	1.12	-	-
	Strathcona	-	1.29	1.39	.36	-	-	-	-	-	-
	Total Waste Mills	51.20	49.54	52.60	51.15	60.39	67.22	58.05	56.45	69.58	59.71
	Grand Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

† Non-Member Company - Reporting Statistics Only

D - CHARTS

Fig. 16 - PRICES - WHITE PATENT
COATED NEWSBACK,
CANADA AND UNITED STATES

Fig. 17 - PRICES - NON-FOLDING
CHIPBOARD, CANADA AND
UNITED STATES

Fig. 16

Prices - White Patent Coated Newsback

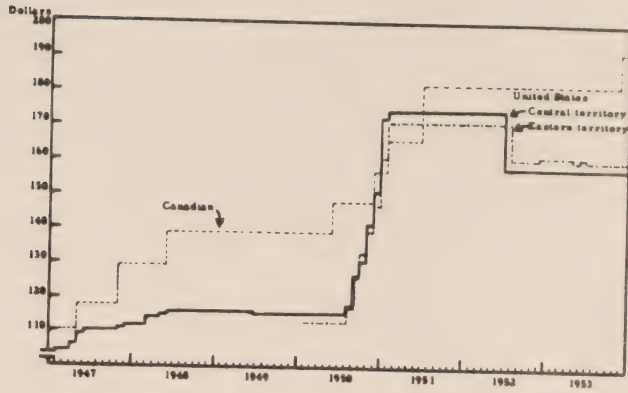
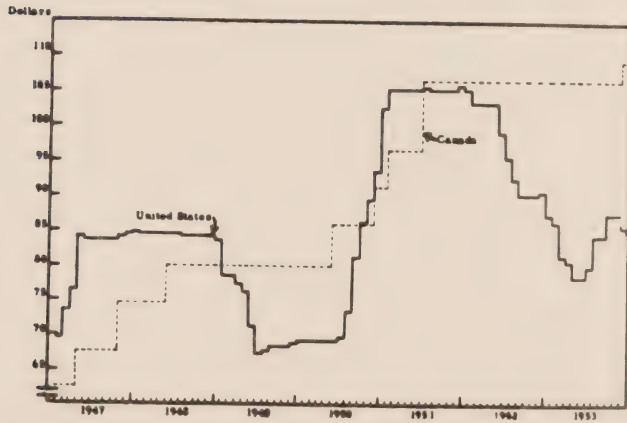


Fig. 17

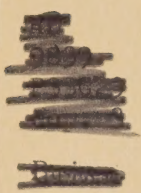
Prices - Non-Folding Chipboard



Source: Figs. 16 & 17 - D. P. L. Schedules for Canadian
B. L. S. for United States

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Canada. Restrictive Trade
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Report concerning the manu-
facture, distribution and sale
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